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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF TEXAS

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DALLAS DIVISION

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UNITED STATES OF AMERICA (NUMBER 3: 04-240-G

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HOLY LAND FOUNDATION, ET AL. (September 17, 2007

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VOLUME 30

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TRANSCRIPT OF THE TRIAL
BEFORE THE HONORABLE A. JOE FISH

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NORTHERN DISTRICT OF TEXAS

U.S. Courthouse

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09:09 1

P R O C E E D I N G S:

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THE COURT: Good morning, Ladies and Gentlemen.

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I hope all of you had a pleasant and restful weekend. We

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are now moving into a new phase of the trial, and I want

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to give you an overview of what to expect over the next

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few days.

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As I told you when we were last together last

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week, Counsel will now be given an opportunity to argue to

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you what they believe the evidence in this case has shown

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or not shown. And I have allotted a maximum of six hours

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per side for that closing argument. Now, under the

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schedule that we have been using for trial, we are

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normally in the courtroom about five to five and a half

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hours per trial day. So if all parties use the full

09:10 15

amount of time that I have allocated to them, that means

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that we probably will not hear the last of the closing

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arguments until sometime Wednesday.

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And at the conclusion of the closing arguments,

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I will then give you my instructions on the law which I

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have reduced to writing and which have been provided to

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counsel. In fact, they may refer to those instructions in

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their closing argument and if they do, it's not because

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they are clairvoyant. They have actually seen a copy of

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the instructions which you will also be given when I read

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them to you at the conclusion of the argument. But I

09:11 1 anticipate that will be Wednesday before that happens.

2 Then you will retire to the juryroom to begin
3 your deliberations. However, I wanted to let you know for
4 the purposes of planning your schedules, that due to
5 commitments that I have made, we will not be in session on
6 Friday of this week. So I don't mean to suggest
7 necessarily that you should reach a verdict on Thursday.
8 I think that's probably unlikely and unrealistic. But I
9 just wanted to let you know what our schedule for this
10 week will likely be. Now, keep in mind during closing
11 arguments, what counsel say -- indeed what they have said
12 at any time during the trial -- is not evidence. Rather,
13 this is their interpretation or analysis of the evidence
14 which you are free to accept or reject depending upon how
09:12 15 closely it coincides with your own memory of the evidence
16 and also depending on how persuasive you think the
17 argument is. As has been true throughout the case, the
18 government as the prosecution and as the party with the
19 burden of proof will have the right to begin the argument,
20 but in recognition of that burden of proof, the government
21 will also have the right to finish the argument. So some
22 of the government's six hours will be devoted to the
23 beginning phase of the argument, and then we will hear
24 from all defense counsel in turn, and then we will hear
25 from counsel for the government again, and then I will

09:13 1 give you my instructions on the law.

2 Who will be arguing the case initially for the
3 government?

4 MR. JONAS: Your Honor, I will.

5 THE COURT: Mr. Jonas, do you have any idea how
6 much time you want to use at this point?

7 MR. JONAS: Your Honor, I think I will be using
8 four hours today.

9 THE COURT: Ladies and Gentlemen, I will try as
10 much as possible not to interrupt counsel to take our
11 recesses, but with a four-hour block I think we will need
12 to take our mid-morning recess and our luncheon recess.

13 Mr. Jonas, do you want me to give you any
14 warnings about how much time you have used at any point?

09:13 15 MR. JONAS: Not this morning, your Honor. Maybe
16 after lunch, I'll let you know if I need a warning.

17 THE COURT: Thank you. We'll hear now from
18 counsel for the government.

19 MR. JONAS: Please the Court.

20 THE COURT: Yes, sir.

21 MR. JONAS: Defense counsel, fellow prosecutors.
22 Ladies and Gentlemen of the Jury. Home stretch, we're
23 almost done. Good morning. I want to start off by
24 thanking you not just for the government but the defense
25 as well for your patience and attention. We really do

09:14 1 appreciate the jury service that you guys have done in
2 this courtroom. As his Honor has said, this is our
3 opportunity to talk to you about the evidence that you
4 have heard over the past several months. But before I do
5 that, I want to talk to you about a few points to keep in
6 mind.

7 Now, the first point is you have heard a lot of
8 foreign-sounding names. It's understandable that you are
9 not going to remember all of those names. You are not
10 going to remember who those people were and what they were
11 associated with in this trial. And I want you to know
12 that you don't have to worry about that. Don't get hung
13 up on remembering every single name that you have heard.
14 For example, you have heard some of the leaders of the
09:15 15 Jenin Zakat Committee and their names. Don't bother about
16 the names. What I want you to remember is the leaders of
17 the Jenin Zakat Committee were HAMAS. You have heard the
18 names of some of the speakers that the HLF brought into
19 the United States to raise funds on behalf of the HLF.
20 Again, don't worry about remembering every single
21 speaker's name. Just remember those speakers were members
22 and leaders of HAMAS. There were five names I do want you
23 to remember, and those are the defendants: Shukri Abu
24 Baker, Abdulraham Odeh, Mohamed El-Mezain, Ghassan Elashi
25 and Mufid Abdulqader. Those are the names that you need

09:16 1 to remember.

2 The second thing I want you to keep in mind as I
3 go through my argument to you and as you go through the
4 records, the exhibits, during your deliberations is that
5 is this what a real charity would do? Think about what
6 you guys think of as a regular moral charity -- the
7 American Red Cross, the United Way. Think about those
8 charities and how they operate. As you go through the
9 exhibits, think about is this what a real charity would
10 do? Would a real charity have a security document to tell
11 it how to act? Would a real charity bring in a foreign
12 terrorist organization to raise funds on its behalf?

13 The answer is no. But an organization that's
14 part of a terrorist organization would.

09:16 15 The third thing I want to mention is that you
16 have heard testimony brought out by the defense during
17 their witnesses and on cross examination the government's
18 witnesses about the Government of Israel and things the
19 Government of Israel has done in regard to the Palestinian
20 people. That's not why you are here. You are not here to
21 decide who's right and who is wrong in the Israel
22 Palestinian conflict. I'm sure defense counsel when they
23 get up and argue before you, they will talk about a lot
24 about what the Government of Israel has done. They are
25 doing that to distract you from the main issue in this

09:17 1 case. As Mr. Jacks told you two months ago when he
2 appeared before you, the issue is whether these defendants
3 knowingly and willfully gave money to HAMAS -- pure and
4 simple -- not whether Israel is right or wrong. It's
5 about HAMAS. HAMAS is a terrorist organization and no
6 U.S. person or anyone in the United States is allowed to
7 give money to HAMAS.

8 Now, I want to talk for a few moments about
9 HAMAS itself. If you remember the government's first
10 witness, Dr. Levitt, he was the government's expert on
11 HAMAS. He educated us on what HAMAS is and how HAMAS was
12 created. In 1928, a group was formed in Egypt call the
13 Muslim Brotherhood. And the goals of the Muslim
14 Brotherhood is basically to turn the world into a world
09:18 15 run by Islamic law. So instead of having laws that we do
16 where they are passed by Congress and not religious laws,
17 the world would operate under Muslim law. And the Muslim
18 Brotherhood over the years grew and formed chapters in
19 different parts of the world, including a chapter in the
20 Gaza Strip.

21 If I can, I will show you the map, 24-2, that we
22 showed you early on. What we have on the right is Israel
23 as we know it. This strip over here is the Gaza Strip.
24 This portion over here, the West Bank. They make up the
25 Palestinian Territories. Israel is surrounded by Egypt in

09:19 1 the south, Jordan to the east and Syria and Lebanon to the
2 north.

3 So the Muslim Brotherhood formed a chapter in
4 Gaza as early as 1948 when Israel was first formed as a
5 country. And through time that chapter grew until the
6 1980's when it was taken over and run by a man name Sheikh
7 Ahmad Yassin. You have heard that name several times.
8 Ahmad Yassin was based in Gaza, and he ran, not just the
9 Muslim Brotherhood, but there were certain institutions
10 that he set up -- and I'll talk about those in a few
11 moments -- which were Muslim Brotherhood institutions.

12 Now, in December of 1987 something happened.
13 Israel had been subjected to several terrorist attacks.
14 And around the same time those attacks were happening, an
09:19 15 Israel citizen who was driving a truck ran into a crowd of
16 Palestinians. Some people believed that was on purpose in
17 retaliation for the attacks, and some people believe that
18 was an accident. For whatever reason, it happened, and it
19 caused an uprising among the Palestinian people, a grass
20 roots uprising, one that was not directed by any
21 organization or any particular leader, and that uprising
22 became known as the Intifada. Today we call it the First
23 Intifada because a year later there was a Second Intifada.
24 Back then we called it the Intifada.

25 Well, the Palestinian branch of the Muslim

09:20 1 Brotherhood led by Sheikh Yassin decided to do something
2 and get involved. There were concern if they didn't get
3 involved in this Intifada that they would lose ground to
4 other Palestinian groups such as the PLO and other groups.
5 So they decided to reform themselves and they did in the
6 form of HAMAS, also known as Islamic Resistance Movement
7 and sometimes referred to as just the Movement.

8 Palestinians who were Muslim Brotherhood back
9 then became HAMAS members. These institutions formed by
10 Sheikh Yassin that were Muslim Brotherhood institutions
11 became HAMAS institutions. Back then, HAMAS was not just
12 throwing rocks at the Intifada, as they told you during
13 their opening statement, but they were committing more
14 violent acts, as Dr. Levitt told you, including kidnapping
09:21 15 of Israeli soldiers.

16 Now shortly after being formed in 1988, hAMAS
17 came out with a charter, its Constitution in effect. And
18 that Constitution has not changed to this day. If you
19 remember, I went through it fairly extensively with
20 Dr. Levitt, and I'm not going into detail like I did then,
21 but you can look at it when you are deliberating. It's
22 21-61. I want to point out a couple of things about the
23 charter. The charter calls for the destruction of Israel.
24 HAMAS does not want a two-state solution; a two-state
25 solution being that the West Bank and Gaza form one

09:22 1 country, the country of Palestine, and Israel remains as
2 the Country of Israel with the two living side by side.
3 That's not what HAMAS wants. HAMAS wants all of that area
4 to be Palestine and the State of Israel to be completely
5 eliminated.

6 Now, in the charter it states Israel will exist
7 and continue to exist until Islam obliterates it. The
8 charter calls for the destruction of Israel through Jihad.

9 Now, we heard Dr. Levitt say that Jihad can be
10 two things: One of them being violence, and you have to
11 look at the context of the word to determine if the
12 meaning is violent. As Dr. Levitt told you, when you go
13 through the charter the meaning of the word "destruction"
14 is violence. So they are calling for the destruction of
09:22 15 Israel through violence.

16 The charter states initiatives and so called
17 peaceful solutions and international conferences are in
18 contradiction to the opinions and principals of HAMAS.
19 Back in 1988 what they are saying is no peace, no peace
20 talks, no peace conferences, period. Their goal is one
21 goal only: Destroy Israel through violence. The charter
22 states there is no solution for the Palestinian question,
23 except through Jihad. Initiatives, proposals, conference
24 are a waste of time. This is five years before the Oslo
25 Accords which was an attempt at a peace process between

09:23 1 the Palestinian people and Israel. And I will talk more
2 about those in a few minutes.

3 The charter also calls for Muslims everywhere,
4 not just Palestinians living in the West Bank and Gaza to
5 commit to Jihad. It calls for economic jihad, a term
6 defined by Dr. Levitt. What that basically means is if
7 you can't commit your body to support HAMAS, then use your
8 money to support those that are using their body.

9 Now, Dr. Levitt also taught us about the
10 structure of HAMAS, that it has three sections -- a
11 military wing, social wing and political wing. And if we
12 can pull up Government's Exhibit 23-3, this was the
13 triangle that Dr. Levitt talked about that shows the
14 structure. If you see, the social wing sits on the
09:24 15 bottom. That's the foundation that the other two wings
16 are built on. You have the political wing in the middle
17 and then the military wing on the top of that.

18 I want to talk about each wing separately for a
19 moment. I want to talk about the order that Dr. Levitt
20 talked about. The military wing is currently call the Izz
21 Al Din Qassam Brigades. That name came out in early 1993,
22 around that time. Before that, it was known as the
23 Palestinian Mujihadeen. Military wing is what the name
24 suggestions. Either commits soldiers, shootings,
25 bombings. What HAMAS is most famous for? Suicide

09:25 1

bombings.

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Now, the military wing in committing its acts doesn't just focus on the Israel military, doesn't distinguish between civilians and military or young or old or men or women or even Israelis or foreigners. You heard Dr. Levitt talk about an attack on Mike's Place, a western style bar located right next to the American embassy. Now, the attacks that military wing commits are terror in every sense of the word, not just in the destruction and carnage, but also in the fact that Israelis on an everyday basis have to worry when they get on a bus if they are ever getting off the bus, if they go in a restaurant if that's the last meal they will have. That's where the attacks occur -- in public places -- in order to terrorize the population. As Dr. Levitt described, sometimes HAMAS will do two attacks at once. There will be a bomb go off, and as rescuers are running to help the victims, there would be a second bomb.

The military wing doesn't just use men. They use women and children to help. For example, you have a woman accompanying a suicide bomber because a couple is less suspicious. You will have a child carry notes among members because the child is less likely to be searched. HAMAS will take credit for the attacks they commit. And the reason they take the credit is several ways. One is

09:26 1 through an issue of a communique which is like a press
2 release. They will have a TV station announce some of
3 these attacks and that they take credit for them. On the
4 internet or in the newspapers. They will make posters
5 praising the suicide bomber or showing a living will of
6 the suicide bomber talking about the killing he plans on
7 doing. HAMAS takes credit for these acts for two reasons.
8 One is part of the terror so the Israeli public and the
9 rest of the world knows that suicide bombing was committed
10 by us and you need to be scared of us and watch out for
11 us. They take credit so that the Palestinian people will
12 know who to support. HAMAS committed this act, not some
13 other group, my money is with HAMAS.

14 The social wing of HAMAS is designed to win the
09:27 15 hearts and minds of people. The social wing does things
16 that we think of as humanitarian purposes. Schools, food,
17 hospitals, libraries, mosques, things that on their face
18 sound fairly benign or benevolent to the Palestinian
19 people. But we know the reason HAMAS does this is to win
20 those people over, to get those people to support HAMAS,
21 and the reason why they want to support the Palestinian
22 people is several fold. One is because if they get the
23 support of the people when they need their help, they will
24 have their help. For example, HAMAS needs someone to give
25 their house up as a safehouse for a bomber. Well, I fed

09:28 1 your family, I now need you to hide this person, and the
2 Palestinian people will do that. I need you to drive
3 somebody to a location. Military wing needs someone
4 driven to a location. People do that because HAMAS has
5 won their hearts and minds through the social help that
6 they have given. The social help also helps to get people
7 to join HAMAS, become -- join the military wing.

8 We talked about education in this trial. HAMAS
9 is big on education. It's in their charter. The social
10 wing teaches children in the ways of HAMAS. It
11 brainwashes little five year old kids in kindergarten to
12 praise suicide bombers so that when these children grow up
13 they will become members of HAMAS. Remember the HAMAS's
14 charter's purpose. It's to destroy Israel, not help the
09:29 15 Palestinian people. Helping the Palestinian people is a
16 means to an end. It's a means of achieving HAMAS's goal
17 of destroying Israel through violent Jihad.

18 The social wing also helps the military wing in
19 other ways. For example, Dr. Levitt told us this one
20 incident where arms, guns, munitions were found buried
21 under a playground at a kindergarten because it was less
22 likely to be searched. Chemicals in the hospital are used
23 to make bombs in the HAMAS hospitals. HAMAS-run mosques
24 are used as dead drops. In other words, they are passing
25 messages in the mosque, and someone else will come in and

09:30 1 take it because it's less likely to be searched.

2 The social wing supports the military wing also
3 by giving the members cover. You will see that several
4 members of the military wing will be employed by the Zakat
5 Committees that are ministered for social support, and
6 that gives those military members cover and protection.
7 All of this gathers the support and loyalty of the
8 Palestinian people, and it's what makes HAMAS one of the
9 strongest and most successful terrorist groups in the
10 Middle East.

11 The third wing is the political wing. The
12 political wing sits atop the military wing and social
13 wing. The political wing runs the big picture of HAMAS.
14 You heard Dr. Levitt say there is the inside leadership
09:30 15 and the outside leadership, the inside leadership being
16 the people on the ground in the West Bank and Gaza like
17 Sheikh Yassin and others. The outside are people who
18 aren't even living in Gaza and West Bank. Initially, they
19 were living in Jordan and got kicked out to Lebanon. Two
20 of those were Khalil Mishal and then Mousa Abu Marzook.
21 Marzook was Number 1, and Khalil Mishal was Number 2, and
22 when Mousa Abu Marzook was arrested in New York, they
23 flipped places, and now Marzook is Number 2 and Khalil
24 Mishal is 1. They make the big picture decisions.

25 We heard testimony that HAMAS has

09:31 1 representatives in Iran, in Yemen, the Sudan and other
2 countries. So they deal on the big level picture.

3 We have heard several people talk about Mousa
4 Abu Marzook being the leader of HAMAS. You don't have to
5 take their word for it if you look at Government's Exhibit
6 21-58, which is the letter from HAMAS to Senator Orin
7 Hatch that identifies Mousa Abu Marzook. Mousa Abu
8 Marzook was arrested in New York in 1995, and HAMAS was
9 protesting the arrest and sent a letter to the Senator.
10 They identify Mousa Abu Marzook as the leader of HAMAS
11 back then.

12 I want to turn your attention now back to the
13 United States. I want to go back to the time that HAMAS
14 was first formed in 1987, 1988. Around that time,
09:32 15 initially Shukri Abu Baker, the defendant, was leaving in
16 Indiana. Ghassan Elashi was living in Los Angeles.
17 Shukri Abu Baker decides to start the Holy Land
18 Foundation. Back then it was called the Occupied Land
19 Fund. He moves to Los Angeles, and he starts it with
20 himself, the Defendant Ghassan Elashi and the Defendant
21 Mohamed El-Mezain. And just by way of an example so that
22 you can see their titles, if you look at Government's
23 Exhibit 11-20, that's just one of the tax returns. It
24 says their position. Mohamed El-Mezain was Chairman of
25 the Board, Ghassan Elashi was Treasurer and Shukri Abu

09:32 1 Baker was the Chief Executive Officer.

2 Ghassan Elashi, if you look at 11-28, was also
3 the treasurer. These guys were Holy Land Foundation at
4 the beginning, its inception. They formed it and ran it.
5 We know that as early as 1990 the Defendant Mufid
6 Abdulqader was raising funds for HLF and a few years later
7 the Defendant Abdulraham Odeh opened a New Jersey office
8 and ran it until 2001.

9 Ms. Hollander told you in her opening statement
10 that the Holy Land Foundation was created because of a
11 sick child that the Defendant Shukri Abu Baker had. We
12 know that's not true. I'm not saying he didn't have a
13 sick child. I'm saying that's not why the Holy Land
14 Foundation was created.

09:33 15 As I told you earlier, the Muslim Brotherhood
16 had chapters throughout the world, not just in Gaza.
17 There was a Muslim Brotherhood chapter here in the United
18 States as early as the 1980's. The Muslim Brotherhood
19 Worldwide, and the United States is not just made up of
20 Palestinians. It's also made up of other nationalities --
21 Pakistanis, Egyptians and others.

22 By 1987, 1988 when the Intifada was started and
23 the HAMAS was created, the International Moslem
24 Brotherhood -- the worldwide leadership -- decided to form
25 Palestine committees in every country. And these

09:34 1 Palestine committees were created to support HAMAS, the
2 HAMAS cause. And there was a Palestine Committee formed
3 here in the United States. That Palestine Committee was
4 directed again to support HAMAS in the United States. And
5 that committee oversaw three organizations. It oversaw
6 the Islamic Association of Palestine, IAP, which was
7 already in existence prior to the formation of the
8 Palestine Committee. We will see that the IAP existed as
9 part of the Muslim Brotherhood in the United States from
10 at least the early 1980's, and the IAP's role was to be
11 sort of the media outlet for HAMAS; that is, to issue the
12 communiques. The IAP published the HAMAS charter in the
13 United States. The Palestine Committee also oversaw the
14 United Association for Studies and Research, UASR. Their
09:35 15 role was to be a think tank. They produced research on
16 HAMAS, books on HAMAS. That was their role. The third
17 was the Holy Land Foundation, and its role was to raise
18 funds for HAMAS.

19 Now, how do we know this? We know this in
20 several ways. The first set of documents I want to talk
21 about were documents taken from the home of Ismail El
22 Barasse, a member of this Palestine Committee. El Barasse
23 lived in Northern Virginia right outside of Washington,
24 D.C., and he was sort of an archivist of the Muslim
25 Brotherhood. He kept the history of the Brotherhood in

09:35 1 his home.

2 Before I go to the first exhibit, I want to
3 point out to you -- and I'm only going to give you a
4 sampling of the El Barasse documents, not all of them, but
5 you will have them all in your deliberations. And you are
6 free to go through this. Before I go there, I want to say
7 something about our exhibit system. We tried to number
8 these as to where they came from. The El Barasse
9 documents start with a 3. Of the Holy Land Foundation,
10 all start with a 1. Documents seized from Infocom which
11 was the company run by Defendant Ghassan Elashi and his
12 brothers that was located across the street from Holy Land
13 Foundation. A lot of Holy Land Foundation documents were
14 found at Infocom. Those documents start with 2. As we go
09:36 15 along I'll give you that key system.

16 I want to start off with Government's Exhibit
17 3-15, Page 10. What the second paragraph of this document
18 states: "These two characteristics make the cause of
19 Palestine a unique cause which requires a unique method
20 and means to manage the struggle as well. This is what
21 the Islamic movement, the Muslim Brotherhood, has
22 realized. Therefore, it pays special attention to the
23 cause of Palestine and established a special apparatus for
24 it which requires support and assistance from all the
25 Brotherhood's movements."

09:37 1 Bottom half of the page it talks about the
2 Palestine section or committee. "This is a special
3 apparatus that the Muslim Brotherhood formed in order to
4 support HAMAS." And what that says is "At the end of the
5 Seventies the Shamm Countries" -- I believe Dr. Brown, the
6 defense witness, identified the Shamm Countries as those
7 countries surrounding Israel like Lebanon and Syria. "The
8 Shamm Countries Movement opened a new section which was
9 called the Palestine Section to oversee the affairs of the
10 Ikhwan inside the Occupied Territories. It was considered
11 the liaison between the followers of the Movement on the
12 inside and outside.

13 "In the beginning of the eighties, the Islamic
14 action for Palestine experienced distinguished leaps. At
09:38 15 the inside level groups and apparatuses were formed to
16 confront the Zionist enemy, and they carried different
17 names then such as the Palestinian Mujihadeen and other
18 names." You recall again, Dr. Levitt said the military
19 wing of HAMAS was known as the Palestinian Mujihadeen.

20 Page 11, bottom half goes on to state "The
21 Islamic Resistance Movement." We know that's HAMAS.
22 "With the increase of the Intifada and the advance of the
23 Islamic action inside and outside of Palestine, the
24 Islamic Resistance Movement, HAMAS, provided through its
25 activities in resisting the Zionist occupation a lot of

09:38 1 sacrifices from martyrs, detainees, wounded, injured
2 fugitives, deportees, and it was able to prove that it is
3 an original and effective movement in leading the
4 Palestinian people. This Movement which was bred in the
5 bosom of the mother movement, 'The Moslem Brotherhood'
6 restored hope and life to the Muslim nation and the notion
7 that the flare of jihad has not died out and that the
8 banner of Islamic jihad is still raised." There again you
9 see the connection between HAMAS and the Muslim
10 Brotherhood. Again, Jihad, violence.

11 If we turn to Page 14 of this document, the top
12 part talks specifically about action in the United States.
13 In fact, if you go up a little higher than that, it talks
14 about some of the resolutions that were reached. Number
09:39 15 17, the last resolution talks about asking country to
16 increase financial and moral support for HAMAS. Number 5
17 talks about Islamic action for the Palestinian cause in
18 North America. I'm not going to read every exhibit.
19 Don't worry. But this exhibit is a pretty good one that
20 talks about the formation of the Palestine Committee. It
21 says "Like other Western, Arab and Islamic arenas, the
22 American arena has seen a move for action for the
23 Palestinian cause by the grace of God and due to the
24 presence of the Islamic Movement and its pioneer the
25 Muslim Brotherhood. The first organizational frame for

09:39 1 Islamic Action for Palestine came in the beginning of the
2 eighties when the leadership of the Movement decided to
3 establish the Islamic Association for Palestine in North
4 America." IAP, the media outlet. It publishes the
5 communiques, etcetera. "When work developed, the Intifada
6 was started and the Islamic Resistance Movement, HAMAS,
7 was formed and the general apparatus for Palestine
8 developed, and in light of the resolutions of the Guidance
9 Office and the Shura Council of the International Movement
10 to form Palestine Committees in all the countries, the
11 General Director came and met with the leadership of the
12 Movement in America in 1988."

13 So here we see the International Muslim
14 Brotherhood coming to the United States to talk to the
09:40 15 U.S. members of the Muslim Brotherhood about what they are
16 going to do to support HAMAS. "After the discussion and
17 agreement, a Palestine Committee was formed under the
18 supervision of the executive office. The Committee was
19 then tasked with supervising all the organizations which
20 serve the plan of the Movement domestically and
21 internationally in addition to the Palestinian cause.
22 Among these organizations were The Islamic Association,
23 the Occupied Land Fund and the United Association."

24 The Occupied Land Fund is the Holy Land
25 Foundation. It's the name they originally used before

09:41 1 they changed the name to Holy Land Foundation a few years
2 later. So what this document is saying is that the
3 International Muslim Brotherhood decided that a Palestine
4 Committee would be formed in the United States, that
5 committee would be to support HAMAS and that committee
6 would oversee the IAP, the HLF and UASR.

7 If we go to -- I'm sorry. Page 15, the last
8 page of this document. This document is in Arabic. We're
9 reading the English translation. The last page, "The
10 Palestinian cause -- or say the Islam's cause in Palestine
11 -- needs today an effective and a distinguished role for
12 the grand Islamic Movement as one fortified wall behind
13 its leadership represented by the Shura Council and a
14 strong support for their tool and striking wing, the
09:42 15 Islamic Resistance Movement, HAMAS."

16 HAMAS was the striking wing for the Palestinian
17 cause. Those strikes came in the form of violence.

18 Government's Exhibit 3-17 is another document
19 that talks about amending the bylaws of the Palestinian
20 Committee, and that document specifically says that the
21 Palestinian Committee will be called the Central
22 Committee. They use both names, the Palestinian Committee
23 and the Central Committee. That's on Page 8.

24 Page 9 talks about issues related to the
25 Occupied Land Fund. So it's about drawing a general

09:42 1 strategy for the Fund -- its budget, its employees, board
2 of directors. So what we start to see is the Palestinian
3 Committee exercising control over the HLF by determining
4 its board of directors and budget, etcetera. In fact, in
5 this document if we can turn to Page 12 it says "Remarks."
6 Number 3, collection of donations for the Islamic
7 Resistance Movement. So again, we see the role of the
8 Palestine Committee, collecting money for HAMAS. And how
9 do they do it? Through the HAMAS.

10 Government's Exhibit 3-1. I would like to put
11 this on the screen, Page 1. This is a chart for the
12 Central Committee, an organizational chart for the
13 Palestine Committee. It's using both names. We didn't
14 create this. This was taken from the home of Ismail El
09:43 15 Barasse. You see, you have a president, a Central
16 Committee, IAP, UASR, Occupied Land Fund. You recall the
17 accountant that testified for HLF. He said it was an
18 independent organization that didn't answer to anybody but
19 its board of directors. Does this show that? Absolutely
20 not. It shows it answered to the Central Committee whose
21 goal was to support HAMAS.

22 Turn to Page 4, this lists out the members of
23 the Palestine Committee. Look at the top. The first
24 thing it says is Administrative Aspect, Chairman Mousa.
25 Who do we know as Mousa? Mousa Abu Marzook, the leader of

09:44 1 HAMAS. He's also doubling up as the leader of the
2 Palestine Committee. Look on the left where it says
3 Committee Chairman Palestinian Action Aspects, we see
4 members of the Central Committee, Mousa, Mousa Abu
5 Marzook; Number 4, El Barasse, Ismail El Barasse, the
6 person whose house this came from.

7 Again, don't get hung up on the names. I know
8 I'm throwing a lot of names at you, but don't worry about
9 every single one. Number 5, there is a name I want you to
10 remember, Mohamed El-Mezain. Number 9, Shukri, the
11 Defendant Shukri Abu Baker. Under the Executive
12 Committee, we see Omar Yehya, who's also known as Omar
13 Ahmad. We will see his name later and other names that
14 we're coming across as we talk this morning.

09:45 15 Looking again on this organizational chart,
16 Number 4, Charitable and Humanitarian Aspect, who names do
17 we see? El-Mezain. What organization do we see listed as
18 Number 1? Occupied Land Fund, the Holy Land Foundation.

19 And again, when you look through this document
20 on the right, you will see names and members of the
21 committee on the right-hand side. You will see the same
22 names that we went through with you. Some of the
23 defendants and some of their co-conspirators.

24 Now, we don't only see their names in this
25 document, the names of the members of the Palestine

09:46 1 Committee. We also see their names in Marzook's phone
2 book, Government's Exhibit 5-79. Why would the leader of
3 a terrorist organization have these people's names in his
4 phone book unless he was connected to them.

5 In 4-1, there is a series of documents and
6 photographs taken from the home of a man named Ashqar. In
7 his home. And Ashqar had a phone list, and this document
8 was in Arabic and here we have it in English. This page
9 is entitled "Important Phone and Fax Numbers, Palestinian
10 Section, America." And it's seen from another source.
11 There is a Palestine Committee and these are the members.
12 1, Mousa Abu Marzook; 5, Mohamed El-Mezain, Shukri Abu
13 Baker. So we're seeing who the members are.

14 There is other El Barasse exhibits. 3-3 is
09:47 15 another one of them that shows the creation of the
16 Palestine Committee. What we have seen is the Muslim
17 Brotherhood decides to form a Palestine Committee. The
18 Palestine Committee is to support HAMAS. In supporting
19 HAMAS, the Palestine Committee overseas the IAP which is
20 the media, the UASR which is the think tank and Holy Land
21 Foundation which is the fundraising arm.

22 Now, even in the early years, even though HAMAS
23 wasn't designated as a terrorist organization and it
24 wasn't illegal to deal with HAMAS back in the early 90's,
25 it was still a terrorist organization. There was still a

09:48 1 committee and violent acts. Dr. Levitt told you that the
2 fact the State Department recognized HAMAS in a document
3 they published every year called "Global Patterns of
4 Terrorists." So because of that it's not good to align
5 yourself with HAMAS. So the Palestine Committee felt it
6 needed to disassociate with HAMAS before the public.
7 While they can claim they are HAMAS in the Muslim
8 Brotherhood community, when it came to facing the American
9 public they had to conceal that. And you will see this
10 concealment -- this deceit of the American public
11 throughout the evidence.

12 One of the places we see it is Government's
13 Exhibit 7-1. This is a deposition in a civil lawsuit when
14 Holy Land was sued. It's the deposition of Mohamed
09:48 15 El-Mezain, the defendant, and in that deposition Mohamed
16 El-Mezain was asked about IAP, and he said the HLF had no
17 relationship with the IAP. Well, we have just seen from
18 the El Barasse documents that the HLF did have a
19 relationship. It was almost like a brother.

20 In another deposition for the same lawsuit,
21 Shukri Abu Baker said the HLF only had a business
22 relationship with the IAP. You can see the relationship
23 with the IAP was a lot more than business. Those are two
24 of the statements they made to conceal the nature and
25 purpose of the Palestine Committee from the American

09:49 1 public.

2 We have seen certain documents, Government's
3 Exhibits 3-5, 3-8, 3-23, the Palestine Committee at work.
4 We see where the HLF is filing reports with the Palestine
5 Committee, where they are committing budgets with
6 Palestine Committee salaries. They talk about -- In 3-8
7 HLF talks about opening an office in Jerusalem. They talk
8 about changing the name from the Occupied Land Fund to the
9 Holy Land Foundation. Are these things an independent
10 charity would do? No. Are these the things that a normal
11 charity would do? Answer to an organization that's is set
12 up to help an support HAMAS? No.

13 Now, we see the Palestine Committee in action
14 not just through the El Barasse documents but we have
09:50 15 heard them in action. We have seen them act and get
16 together through several of these phone calls and meetings
17 that they had that the FBI taped. The first on -- And I
18 want to talk about some of them. The first one took place
19 in October of 1993, a Marriott hotel in Philadelphia. We
20 call this the Philadelphia conference. That's how I will
21 refer to it. We know that the Philadelphia conference was
22 set up by the Defendant Shukri Abu Baker along with Omar
23 Ahmad, who was part of the Palestine Committee, and
24 Ashqar, another member of the Palestine Committee.

25 We have seen 16-25 and 15. They talk about the

09:50 1 agenda, who's going to attend, the location and other
2 issues. All to set up this Philadelphia conference. And
3 the attendees were many members of the Palestine
4 Committee. We see American Express records where HLF paid
5 for these people to come. Why would a charity use its
6 money to pay for people who are not part of the charity to
7 attend a conference of the Palestine Committee. They
8 shouldn't, but they did because that's HLF's purpose. We
9 know that Mohamed El-Mezain -- Why would his signature be
10 on the hotel record? And you can see that on 21-60. The
11 defendant in that same lawsuit I talked about a moment
12 ago. And one of the papers filed in that lawsuit,
13 Government's Exhibit 77-6, said the Defendant Ghassan
14 Elashi wasn't there, but he was. We showed you a picture
09:51 15 of Ghassan Elashi walking with Shukri Abu Baker outside
16 the hotel during this Philadelphia conference. So we have
17 Mufid Abdulqader in attendance, the Defendant Shukri Abu
18 Baker. All there. And Mohamed El-Mezain was supposed to
19 be there, but he was sick. He was in the hospital and
20 couldn't attend. The transcript for this conference which
21 took place over two days in October 1993 are 16-47 and
22 16-41, and I invite you to read them. I'll hit only
23 highlights, but you will see the highlights I hit are
24 throughout the transcripts.

25 Now, in a different lawsuit, a separate one, the

09:52 1 Defendant Shukri Abu Baker filed a declaration with the
2 court. A declaration is open to the public. And in the
3 declaration, Shukri Abu Baker says the meeting, the
4 Philadelphia conference, was just a meeting of Islamic
5 intellectuals, community leaders and representatives. It
6 was not a meeting of any particular organization. But we
7 know that's not true. That's being deceptive, and we know
8 that because Omar Ahmad in the beginning of the meeting,
9 16-47 states "This is a meeting of Palestine Committee."
10 Sets it right out there. That's an organization. So
11 Shukri Abu Baker says in a sworn -- under oath --
12 declaration that was not a meeting of an organization. He
13 wasn't telling the truth. He was being deceptive.

14 During the conference, the Defendant Shukri Abu
09:53 15 Baker tries to give a cover. Tries to tell the attendees
16 there that we can't let anyone else know why we're
17 meeting, and he says in 16-49 "Please don't mention the
18 name HAMAS in an explicit manner. We insist on saying
19 SAMAH. We will talk about her honor in this session."
20 The session here is a joint workshop between the Holy Land
21 Foundation and the Islamic Association of Palestine.
22 "This is the official form, I mean, please, in case some
23 inquire."

24 Why would Shukri Abu Baker be concerned about
25 people inquiring about this Philadelphia conference unless

09:54 1 the true purpose of the conference is to talk about their
2 plans for HAMAS in America?

3 Now, we know that they try to conceal the
4 purpose because Shukri Abu Baker was admonishing people
5 for using the term "HAMAS." When one person says "Is this
6 against HAMAS," Shukri Abu Baker said "Didn't we say not
7 to mention that term?" And the person says "Is this
8 against the Movement," the Movement being another name for
9 HAMAS. Another person says "HAMAS, I mean SAMAH."
10 Obviously that person caught themselves. Shukri Abu Baker
11 said the term SAMAH was a whimsical play on words in that
12 declaration. SAMAH means forgiveness in Arabic. If you
13 read the transcript for the Philadelphia conference, you
14 will see they are not whimsically playing with words but
09:55 15 referring to HAMAS. They use HAMAS, SAMAH, Movement
16 throughout all of those transcripts. No question the
17 purpose of this meeting was to discuss HAMAS and their
18 support of HAMAS.

19 One of the main agendas was the Oslo Accords.
20 The month prior to this meeting in September of 1993 the
21 Oslo Accords were signed on the White House lawn here in
22 the United States. Again, the purpose of the Oslo Accords
23 was to be a peace treaty between the Israelis and the
24 Palestinians. In this case, the Palestinians were
25 represented by the PLO, Yasser Arafat. The PLO was a

09:55 1 secular group, not religious based. And HAMAS as we know
2 was against all peace conferences. Five years before the
3 Oslo Accords happened, they are saying no peace
4 conference, waste of time. So off the bat they are
5 against the Oslo Accords.

6 In fact, they took several steps to try to
7 derail the Oslo Accords through suicide attacks.
8 Dr. Levitt told you that certain attacks after the Accords
9 were designed to interrupt the peace process. Like when
10 Secretary of State Albright traveled to Israel there were
11 promises then to interrupt the process, and it worked.
12 The peace process never happened and from a large part due
13 to the bombings by HAMAS.

14 Now, the Palestine Committee during this meeting
09:56 15 also expressed a concern about the Oslo Accords. They
16 discussed the affects of the Accord on HAMAS. They
17 expressed the concern that if peace breaks out no one
18 would support HAMAS. God forbid peace should break out.
19 They are afraid of the Authority that may take over the
20 Zakat Committees. HAMAS controls the Zakat Committees.
21 They talk specifically about measures they have to take in
22 order to derail the agreements that support HAMAS. One of
23 defendants, Shukri Abu Baker, talks about derailing the
24 agreement, not -- All the participants collectively are
25 talking about that.

09:57 1 Government's Exhibit 16-63, "The most important
2 thing we can provide in this stage is to support Jihad in
3 Palestine. I believe it's the only way to bring the goals
4 of Accord to fail."

5 16-67, "I'm working on Jihad." Support the
6 Jihad, support the Jihad. Who's doing Jihad? HAMAS. It
7 says so in their charter.

8 16-85, after discussion of the Oslo Accords, the
9 Defendant Shukri Abu Baker says "Your mother SAMAH is the
10 mother of democracy." Would you expect a regular charity
11 who says its purpose is to help people be against a peace
12 process? Absolutely not.

13 By the way, Philadelphia was not the only time
14 they used the term "SAMAH." We see it in a phone call
09:57 15 between Shukri Abu Baker and Ashqar when they talk about
16 someone approaching Baker who claimed to be part of HAMAS,
17 and in that phone call Shukri Abu Baker used the term
18 "SAMAH."

19 They talk about ways they are going to present
20 themselves to the American public. Again, they can't say
21 they are HAMAS because that wouldn't look good because
22 HAMAS is against the peace process and committing
23 terroristic acts. The United States was supporting the
24 peace process. The American public was supporting it.
25 And if the Palestine Committee came out against it, it

09:58 1 would not look good. They decided to publically make it
2 appear as if they were distancing themselves from HAMAS
3 and at the same time supporting HAMAS. Shukri Abu Baker
4 talks about that point, after the peace accords they were
5 going against the current. How initially they were with
6 everybody, everybody was with them supporting the
7 violence, supporting HAMAS, and now there is peace accords
8 and everyone is supporting the peace. So they were going
9 against the tide of the people. And what he says in
10 regard to what he can say to the American public is
11 specifically at 16-87, "I cannot say to him that I'm
12 HAMAS." Shukri Abu Baker is acknowledging that he cannot
13 say to the American public -- he cannot say to you -- that
14 he is HAMAS.

09:59 15 To help keep their cover, they discuss creating
16 an untainted organization because all of those
17 organizations -- IAP, HLF, UASR -- are tainted as being
18 HAMAS. In 16-69, one of the participants is
19 saying "Representing the Islamic community in general
20 terms, you see. This way we can visit Palestine not as
21 the Holy Land Foundation because the Holy Land Foundation
22 is stamped already as whatever."

23 16-67, someone else says "In my opinion we must
24 form a new organization for activism which will remain
25 neutral because we are placed in a corner. It is known

10:00 1 who we are. We are marked." Marked as what? Marked as
2 HAMAS.

3 Someone says "Brother had a suggestion to form
4 an organization, one whose Islamic hue is not very
5 conspicuous." One of the participants, Omar Ahmad, a name
6 you heard me mention, talks further about the
7 organization. They talk about it throughout the
8 Philadelphia conference. And what do they do? They
9 create the organization. The organization is called the
10 Council of American Islamic Rights, CAIR, C-A-I-R, and
11 CAIR joins its brothers, the IAP, the HLF and UASR as part
12 of the Palestine Committee in supporting HAMAS, and we see
13 this in 3-78, Page 6. You see Number 3. The top says
14 "Meeting Agenda for the Palestine Committee, July 30,
10:01 15 1994." This is about eight months after that meeting in
16 Philadelphia. "Number 3, Reviewing reports of the working
17 organizations. Future suggestions to develop work for the
18 following organizations: IAP, HLF, UASR, CAIR." CAIR has
19 now joined the other three.

20 After the Philadelphia conference, we again see
21 the Palestine Committee in action in 1994 when a dispute
22 arose between several members of the committee, between
23 the HLF and Ashqar whose name I mentioned a few moments
24 ago. Ashqar had an organization called the Al-Aqsa
25 Education Fund. What Ashqar did is he brought in a

10:01 1 speaker named Jamil Hammami, one of the leaders and
2 founders in the West Bank. He brought Hammimi to the
3 United States to raise funds on behalf of Al-Aqsa
4 Education Fund. And that was a problem because the
5 Committee and the HLF had an arrangement with Ashqar that
6 Ashqar would not bring in speakers at certain times of the
7 year and without clearing it with HLF because there might
8 be conflicts. Why should an independent charitable
9 organization be worried about another organization? It's
10 not an independent charitable organization. We see it
11 here. It's in control of the Palestine Committee.

12 So what happened? Mousa Abu Marzook, the leader
13 of HAMAS intercedes, and we see in Government's Exhibit
14 16-3, a phone call between Ashqar and someone else.

10:02 15 Ashqar talks about a letter that Marzook wrote them, and
16 in that letter Marzook says stop the fighting. We must be
17 united. Ashqar backed down and let go of Hammami. Why
18 would the leader of HAMAS have to intercede unless the HLF
19 was part of HAMAS and an important part of HAMAS? Ashqar
20 didn't listen.

21 So the Palestine Committee got together, and
22 they had a conference call, and Government's Exhibit 17-1,
23 they talk about what they are going to do and how they are
24 going to handle the situation. And what they decide is
25 they decided that the HLF would get the money that Hammami

10:03 1 raised and the HLF would send it back to Hammami and his
2 organization in the West Bank. All the Committee members
3 voted. If we could play 17-1. If we could play an
4 excerpt of that meeting of the Palestine Committee.

5 (Tape played).

6 MR. JONAS: So the Palestine Committee came
7 together and decided that HLF would take over the money
8 that Hammimi raised. By the way, I had the acronym right,
9 CAIR, but it's Council of American Islamic Relations.

10 Ashqar is still not happy, and he's visited by
11 Hammimi and Syam back at his home in Oxford, Mississippi.
12 In 16-67, we see them talking about the Marzook letter,
13 the decision of the Committee and what's going to happen
14 to the money, and so we see the Palestine Committee in
10:05 15 action in interceding and Marzook as well in interceding
16 on behalf of HLF in the dispute.

17 The function of the Palestine Committee
18 continued up through at least 1999. If you recall when
19 Mr. Yaish was on the stand -- and he's the accountant -- I
20 played a phone call between Shukri Abu Baker and Omar
21 Ahmad where they discuss they are going to pay Mohamed
22 El-Mezain for some of the fundraising he did on behalf of
23 HLF. And in that phone call -- In that phone call Omar
24 Ahmed says "we" consider this and "we" pay him that and
25 "we" look through the books of the HLF. We, we, we. Omar

10:06 1 Ahmad has nothing to do with the HLF. At least clearly
2 not on the face. But by saying we, we, we and he and
3 Shukri Abu Baker decide how much to pay Mohamed El-Mezain,
4 Omar Ahmad is exercising control over the HLF. Again,
5 it's another example of the Palestine Committee directing
6 the HLF in its support for HAMAS.

7 What it shows from these documents coming from
8 multiple sources -- Philadelphia, Ashqar, Philadelphia
9 conference, Marzook's phone book -- is that there is a
10 Palestine Committee in the United States that's part of
11 the U.S. Muslim Brotherhood. The Palestine Committee was
12 set up to support HAMAS. The Palestine Committee controls
13 four organizations, each with a separate purpose: IAP as
14 the media outlet, UASR as HAMAS think tank, CAIR as
10:07 15 HAMAS's lobbying arm and HLF as HAMAS's fundraiser in the
16 United States. Again, is this how a regular charity would
17 act?

18 This covers the creation and purpose of the HLF.
19 Let's look at what they did in those early years. The HLF
20 did not waste much time in supporting HAMAS. First, if we
21 could put up Government's Exhibit 20-33 we see payments
22 between Marzook and the HLF. This is one of those
23 schedules -- This is a schedule that basically summarizes
24 the payments. And very briefly, you have the date, who's
25 making the payment. You have whether it's a check or a

10:07 1 wire, the amount, who it's going to, and then you have on
2 the far right the exhibits that support that particular
3 payment on the schedule. We see it going back and forth.
4 We see as early as 1988, the HLF giving \$10,000 to Marzook
5 both in April and May of that year. And we see Marzook
6 putting money back in the HLF, and back and forth it goes.
7 Marzook ended up giving over several hundred thousand
8 dollars to the HLF, and HLF gave \$10,000 back to Marzook.
9 We're talking about the leader of a terrorist organization
10 here. Government's Exhibit 7-1, this is the deposition
11 that Shukri Abu Baker gave in a civil lawsuit so the only
12 connection between Marzook and HLF was a one time \$200,000
13 contribution that Marzook made. What he failed to say is
14 that HLF gave tens of thousands of dollars back to
10:08 15 Marzook. Concealment. Shukri Abu Baker was concealing
16 the relationship between HAMAS and HLF.

17 That's not the only money that HLF gave directly
18 back to HAMAS. In a three-month period, 20-16, from
19 September 1988 until the end of October of 1988, actually
20 a two-month period. Holy Land Foundation gives \$250,000
21 to K & A trading. Now, the money was wired from the K & A
22 Trading account in Switzerland. I know it says the Banque
23 du Paris, but the account was actually in Switzerland, and
24 we have seen the records of this account.

25 19-14 are bank records and that tells you that K

10:09 1 & A Trading was run by Khairy Al Agha, and we know from
2 Dr. Levitt that Al Agha is a well known HAMAS financier.
3 Go back to Marzook's phone book, 4-1, Page 5. It says
4 more than phone and fax numbers. Palestine Section
5 Outside of America, the very first name, Khairy Al Agha.
6 Why would a charity be wiring \$250,000 to a trading
7 company based in Switzerland. It shouldn't, unless that
8 trading company is also a HAMAS front. We know that K & A
9 is connected to Marzook. That's further evidence of
10 HAMAS. We see K & A wiring \$100,000 back to Marzook.
11 It's all very incestuous.

12 At the same time HLF is wiring a \$125,000 to an
13 organization run by Sheikh Yassin in the seventies.
14 Remember I told you that Yassin when he was running the
10:11 15 Muslim Brotherhood set up certain organizations. Islamic
16 Center was one of them. Once HAMAS was formed, it became
17 a HAMAS institution. For five years, I believe starting
18 in 1998, HLF sent over \$125,000 to the Islamic Center,
19 Sheikh Yassin's institution.

20 There is also direct contact between HLF and
21 leaders of HAMAS. We see phone calls. Khalil Mishal, the
22 current number one of the political bureau, back then
23 Number 2, called up Mohamed El-Mezain.

24 (Tape played)

25 MR. JONAS: Abu Ibrahim is the Defendant Mohamed

10:12 1 El-Mezain's "Abu" name and Abu Omar is Khalil Mishal's
2 "Abu" name.

3 (Tape played).

4 MR. JONAS: So we see one of the top two people
5 in HAMAS inviting Mohamed El-Mezain to Turkey. We need
6 you there. Who is we? HAMAS. HAMAS needs Mohamed
7 El-Mezain to go to Turkey. We see from the phone records
8 that HLF called Imad Alami. Who is he? The HAMAS
9 representative in Iran. Why would a charity call the
10 HAMAS representative in Iran?

11 Now, the defendants expressed their support and
12 association with HAMAS in several different ways. The
13 IAP, the media outlet for HAMAS, published a magazine in
14 Arabic. The magazine was called Ila Filistine.

10:13 15 Government's Exhibit 21-3, one of those Ila Filistine
16 issues. We turn to Page 60 of that magazine. This is an
17 ode, a poem, an essay, whatever you want, to HAMAS written
18 by the Defendant Shukri Abu Baker. It's entitled "Hayzum
19 HAMAS Has Arrived," and at the bottom at the end of the
20 poem, Shukri Abu Baker writes "We will not accept other
21 than HAMAS." Keep in mind what I talked about, deception.
22 8-1 is that sworn declaration that Shukri Abu Baker filed.
23 On Page 2 of 8-1 Shukri Abu Baker says that he rejects and
24 abhors HAMAS and all its ways. Does this poem or ode to
25 HAMAS sound like it's coming from a man who rejects and

10:14 1 abhors HAMAS? No, this poem is written in Arabic in a
2 magazine that's designed to go to the supporters of HAMAS.
3 That declaration was filed publically which the American
4 public can see. One face to the supporters of HAMAS.
5 Another face to the American public.

6 Abdulraham Odeh had a picture in his New Jersey
7 office that looked like it was cut out from a newspaper of
8 three major terrorist leaders, Khalil Mishal and two
9 others. He had several HAMAS books in his office,
10 published by the IAP and UASR. It's not illegal to
11 possess this material. But two questions. One is why
12 would a charity have this? And the second thing, while
13 it's not illegal to possess it's something you can
14 consider in determining whether Odeh was a supporter of
10:15 15 HAMAS and whether or not he was part of the conspiracy
16 that he's charged with in this case.

17 Mohamed El-Mezain, the defendant, had a
18 particular interest in suicide bombings. Again, having an
19 interest in suicide bombings is not against the law. It's
20 something you can consider in determining whether he
21 supported HAMAS as charged in this case. He regularly
22 received HAMAS communiques from the IAP which reported on
23 the activities of HAMAS. For example, Government's
24 Exhibit 15-52 is a report on a suicide bombing in
25 Jerusalem. The report is entitled "A Special Report about

10:16 1 the Jihadist Heroic Operation in the Midst of the City of
2 Jerusalem." Jihadist heroic operation. That doesn't
3 sound like reporting an event that went on in the Middle
4 East. It sounds like someone who's supporting the action.
5 That's what Mohamed El-Mezain was receiving. And another
6 report on a kidnapping in another IAP communique reports a
7 kidnapping of an Israeli soldier who happened to be an
8 American citizen. Dr. Levitt told you that soldier was
9 killed, and that led to the suspension of peace talks, one
10 of the goals of HAMAS. That happened in 1994, about a
11 year after the Oslo Accords.

12 15-27 is a report in January of 1995. An adult
13 suicide bomber, indicating facts to El-Mezain that killed
14 eight people and injured sixty-two. According to a report
10:17 15 that El-Mezain received, a car was boobytrapped and a bomb
16 went off at the restaurant. What Dr. Levitt told you was
17 a small bomb went off first, and then when the people were
18 running to help, a larger bomb went off. The Defendant
19 El-Mezain got a call about this attack from the Defendant
20 Abdulraham Odeh. 15-1 is a very short call, but in it
21 Odeh said it was reported on the radio, and Odeh called it
22 "a beautiful operation." The Defendant El-Mezain ends the
23 conversation by saying "It will be good, God willing."
24 The defendant El-Mezain didn't just -- Your Honor, I'm
25 about to play a video if you want to take the mid-morning

10:18 1 recess at this time.

2 THE COURT: All right. Ladies and Gentlemen,
3 we'll take our break now, we'll be in recess until 10:35.

4 (Recess)

5 THE COURT: Go ahead, Mr. Jonas.

6 MR. JONAS: Before the break, I was talking
7 about some of the communiques that the Defendant Mohamed
8 El-Mezain received that the IAP reported on in the HAMAS
9 suicide bombings, and one thing I forgot to mention
10 earlier when I pointed out the numbering system. I
11 mentioned the 15 system. The 13 series through the 18
12 series are the wire taps for the phone calls and faxes the
13 government intercepted. Each number being a separate
14 subject or phone line.

10:39 15 To get back to the Defendant Mohamed El-Mezain,
16 he didn't just read about these suicide bombings. He
17 didn't just talk about Jihad on the phone. He also
18 preached it. I want to play seconds of a video tape that
19 you have seen which comes from the home of Fawaz Mushtaha.
20 Fawaz Mushtaha was one of the names of the members of the
21 Palestine Committee, and these video tapes -- If you
22 remember the government's second or third witness was an
23 individual who told you that he lives right outside of
24 Washington, D.C., and he was levelling his backyard one
25 day, and he uncovered these spools of tape, and these are

10:40 1 tapes that were buried and tried to be destroyed by Fawaz
2 Mushtaha. Fawaz Mushtaha was the prior homeowner before
3 this guy. So these tapes were buried, and Fawaz Mushtaha
4 not only buried tapes but tried to burn other items.
5 There were other items found in his fireplace and barbecue
6 pit, and the FBI put together what they could of these
7 video tapes. Some of them were unsalvageable. And these
8 are some of these video tapes he tried to destroy. And
9 ask yourself why he would try to destroy them unless there
10 was incriminating evidence on them.

11 First, we're going to see an individual who's
12 going to talk about a conference that El-Mezain is talking
13 at, and then we will see El-Mezain talking and a few other
14 clips and this is Government's Exhibit 22-12.

10:41 15 (Tape played).

16 MR. JONAS: Now, we see this is an IAP festival
17 talking about HAMAS, and it's taking place right here in
18 the United States in Arizona.

19 (Tape played)

20 MR. JONAS: Here we see the Defendant Mohamed
21 El-Mezain come out. Obviously a much younger El-Mezain
22 than we see today. This next segment is a clip of what he
23 says.

24 (Tape played).

25 MR. JONAS: They will not leave except by the

10:43 1 sword, and they will not leave except by force. Again,
2 talking about the HAMAS charter, the only way they will
3 get rid of Israel is through force.

4 (Tape played).

5 MR. JONAS: From the river to the sea. From the
6 river to the sea, all of Israel will become Palestine.

7 Now, this last clip is something that happened
8 after Defendant Mohamed El-Mezain gave his lecture.

9 (Tape played).

10 MR. JONAS: Notice the babies crying.

11 (Tape played).

12 MR. JONAS: All about HAMAS. Well, we have seen
13 Shukri Abu Baker and his poem to HAMAS. We have seen Odeh
14 and his material found in the office. We have seen

10:45 15 El-Mezain talking about suicide operations and giving a
16 lecture on Jihad at the IAP festival in the United States.
17 We know that Mufid Abdulqader was a member of a band, and
18 we saw some video of the band singing songs. I want to
19 play a couple of short clips of the songs the Defendant
20 Mufid Abdulqader sang. 14-1 A and C.

21 (Tape played).

22 MR. JONAS: On the right, you see the Defendant
23 Mufid Abdulqader.

24 Here he is again.

25 (Tape played).

10:47 1 MR. JONAS: HAMAS is my role model. The martyrs
2 are my role model. This was what the defendant was
3 singing about. This wasn't just him on his own. This was
4 a group. This video tape was seized at the Holy Land
5 Foundation. And while it may have been old, it was seized
6 in 2001. So they held onto it for many years. Why would
7 the HLF hold onto such a tape? Why would the HLF hire
8 this band to sing at their functions unless Holy Land
9 Foundation supported what this group was saying?

10 Mufid did more than just sing. We see him
11 sending greetings to Sheikh Yassin and Mousa Abu Marzook.
12 If we could play 1-315. Again, this is a tape seized from
13 the Holy Land Foundation. 3-15 B. I'm sorry. I jumped
14 ahead. We will play the rest of the excerpt of 3-14.

10:49 15 (Tape played).

16 MR. JONAS: This is the Defendant Mufid
17 Abdulqader second from the left.

18 (Tape played).

19 MR. JONAS: There is the Mufid Abdulqader
20 singing about fighting on the land of HAMAS. You see they
21 start to do more than sing. They send greetings to Sheikh
22 Yassin and Mousa Abu Marzook, 3-15, another video seized
23 from the HLF. 1-315, Clip B.

24 (Tape played).

25 MR. JONAS: This tape must have been around 1995

10:51 1 because he was talking about Mousa Abu Marzook being
2 arrested in New York, and that's when he was. The
3 Defendant Mufid Abdulqader would sing and send out
4 greetings and put on skits. I want to put on one of those
5 skits. This is 3-74 that was seized from the home of
6 Ismail El Barasse.

7 (Tape played).

8 MR. JONAS: There is the Defendant Mufid
9 Abdulqader. That was played just to show you this tape is
10 from an IAP festival.

11 The next clip.

12 (Tape played).

13 MR. JONAS: This is something that went on
14 there.

10:54 15 (Tape played).

16 MR. JONAS: Sheikh Yassin, spiritual leader and
17 founder of HAMAS. There is a picture of him.

18 (Tape played).

19 MR. JONAS: Wearing green head bands the way
20 HAMAS members wear.

21 (Tape played).

22 MR. JONAS: Peaceful solution is not acceptable;
23 that's what HAMAS says.

24 (Tape played).

25 MR. JONAS: You can see children on the stage

10:55 1 wearing ski masks.

2 (Tape played).

3 MR. JONAS: You see men come out with a gun and
4 pretend to shoot them.

5 (Tape played).

6 MR. JONAS: I am from HAMAS. The next clip of
7 what went on at that conference. This is here in the
8 United States. You see the individual on the left is
9 pretending to be from Israel.

10 (Tape played).

11 MR. JONAS: Here comes the Defendant Mufid
12 Abdulqader. There are cheers for him. He says "I am
13 HAMAS."

14 (Tape played).

10:57 15 MR. JONAS: And then they go back and forth in
16 the skit and it ends with --

17 (Tape played).

18 MR. JONAS: There are cheers in the crowd when
19 he kills the person pretending to be an Israeli. And they
20 chant for HAMAS.

21 Now, these took place in the United States, but
22 everything is in Arabic. It's not something that's
23 available for the American public to come in and see and
24 participate in.

25 During their opening statements, the defendants'

10:58 1 counsel all talked to you about freedom of speech.
2 Freedom of speech is a wonderful and incredible right in
3 the United States, and except in certain circumstances,
4 you cannot be prosecuted for saying what's on your mind,
5 and these defendants here are not on trial for saying
6 what's on their mind, where the Defendant Mufid Abdulqader
7 is enacting a skit where he's killing somebody.

8 But you as a juror are certainly allowed to
9 consider that speech in determining whether or not they
10 committed the acts that they are charged with. They are
11 charged with providing money to HAMAS, and by looking at
12 what they had to say and expressing their thoughts and
13 opinions and feelings, you are allowed to consider that
14 speech in determining whether or not they are guilty of
10:59 15 the crimes they are charged with. So again, while they
16 are not on trial for exercising their speech, you can
17 consider that speech in determining what's going on in
18 their head.

19 Now, I talked about the Palestine Committee and
20 the HLF's role in it. I talked about the defendants
21 individually, how they talked about their support for
22 HAMAS. I want to talk about the HLF now as a whole, as an
23 organization. We saw in the Philadelphia conference the
24 Defendant Shukri Abu Baker tried to be security conscious,
25 talking about SAMAH, using the code word SAMAH, telling

10:59 1 the other members to pretend that this is just supposed to
2 be a meeting between the HLF and IAP in case anyone asks.
3 Well, why were they security conscious? Government's
4 Exhibit 2-101 is a security document found at Infocom
5 among other HLF documents, and this document lays out ways
6 for the Holy Land Foundation to act in a secretive manner,
7 in a covert manner. And ask yourself this question, as I
8 said at the beginning. Would a regular charity have such
9 a document? This document is not unique to the HLF. This
10 is part of the mantra of the Muslim Brotherhood in the
11 United States to operate in this secretive manner.
12 Government's Exhibit 3-92, Page 20, is a document -- a
13 Muslim Brotherhood United States document. This is one of
14 the ones seized from El Barasse. Page 25 of that
11:00 15 document, if we can pull that up. 3-92, Page 25. This
16 document is entitled "Implementation Manual for the
17 Group's Plan for the Year of 1991 to 1992."

18 Okay, it's not coming up. Let me tell you what
19 it says. You will have all of these exhibits back in the
20 juryroom when you deliberate so you can look at these for
21 yourself. This lists out the departments and committees
22 for the group, this being the Muslim Brotherhood in the
23 United States. And it's now on the screen. Page 20, the
24 bottom half of these departments and committees, we see
25 Number 13, Security. And it says one of the things the

11:01 1 security group is to do is to publish a security bulletin.
2 Well, we have seen that security bulletin, 2-101, found at
3 Infocom. And just to show you this is not just some
4 random document that's not connected to these defendants,
5 if you go to the next page, Number 14 of the committees is
6 the Palestine Committee. And if you go to the last page,
7 it talks about work to be implemented by the Palestine
8 Committee. It talks about the Fund, and we know the Fund
9 is Occupied Land Fund or the HLF. Government's Exhibit
10 3-85 is another manual that talks about security for the
11 group. It talks about a center which is concerned with
12 the security issues, and again that document lists the
13 Occupied Land Fund as one of its organizations.

14 So the Muslim Brotherhood is concerned about
11:02 15 security, and they created this document, this 2-101,
16 which was found at Infocom, and we see in going through
17 the document certain examples where the HLF followed
18 through on the security measures set forth in this
19 document, and you heard Agent Miranda go through some of
20 the examples, and I will briefly mention some. In the
21 1990's, Shukri Abu Baker applied for a visa to travel to
22 Saudi Arabia under the guise of being an Infocom employee.
23 The Defendant Shukri Abu Baker never worked at Infocom.
24 But the security manual says to get covered while
25 travelling, and that's what he did. That's Government's

11:03 1 Exhibit 1-8.

2 Government's Exhibit 1-195, we see an invoice
3 from a security company that was hired by the HLF to sweep
4 the building for bugs, for electronic listening devices.
5 Why would a charity sweep its offices for electronic
6 listening devices? Why would the leader of a charity
7 travel under false cover unless he's operating under the
8 security document which was implemented by the Muslim
9 Brotherhood and HAMAS. They use code words, "SAMAH," not
10 once in a whimsical fashion but throughout the
11 Philadelphia conference and in at least one phone call
12 that we have seen. All of this is an attempt to conceal
13 the true nature to the American public.

14 And they were not the only ones who were trying
11:04 15 to conceal the HLF's true purpose. If you remember Steve
16 McGonigle, he's the reporter from the Dallas Morning News.
17 He testified in 1989 he went over to Gaza to research a
18 story on the Holy Land Foundation. He testified he met
19 with Mahmud Zahar, one of the leaders of HAMAS. Mahmud
20 Zahar told Steve McGonigle that Holy Land Foundation is
21 not part of HAMAS, and yes, he once met Shukri Abu Baker
22 in the early 90's, late 80's and they talked about medical
23 issues. Mr. Zahar is a medical doctor. What he didn't
24 tell Mr. McGonigle is the Holy Land Foundation brought
25 Zahar over to the United States on the Fund's fundraising

11:04 1 behalf. You'll see Shukri Abu Baker sitting in the
2 audience with Zahar. Zahar knew if Holy Land Foundation
3 was outed as HAMAS they would get in trouble.

4 Steve McGonigle then went to visit Sheikh
5 Yassin, the spiritual leader and founder of HAMAS, and we
6 know the phone call between the HLF representative in Gaza
7 and the Defendants Shukri Abu Baker and Ghassan Elashi,
8 who were very worried about McGonigle's trip to the Gaza,
9 that Sheikh Yassin played dumb when it came to the HLF.
10 Sheikh Yassin told McGonigle that what is this HLF. We're
11 building a school, maybe they can help us. As the HLF
12 representative said, he played dumb. Why would the leader
13 of HAMAS have to play dumb when it came to the HLF unless
14 he knew he had to cover up for them?

11:05 15 Now, I have talked about the creation of HLF,
16 the Palestine Committee and the defendants' support and
17 their words, the security measures, the covering up.
18 Let's now talk about how the HLF went about their mission.
19 How did they raise funds for HAMAS. Well, they did so
20 through several ways. One of those ways was conferences
21 where they would get up there themselves and speak and
22 raise funds. I want to play segments of a video of one of
23 these conference so that you can get a flavoring of what
24 went on. This is a video, 1-122, that was seized from
25 Fawaz Mushtaha's home, the backyard where the tape was

11:06 1 taken out of one of the spools. There is several segments
2 of this one.

3 (Tape played).

4 MR. JONAS: There is the Defendant Mohamed
5 El-Mezains in the middle. To our right, looking at him on
6 the right is Mahmud Zahar, the individual that McGonigle
7 interviewed that said HLF not HAMAS. On the Defendant
8 El-Mezain's left is Sheikh Jamil Hammimi, one of the
9 founders of HAMAS from the West Bank. This took place in
10 Los Angeles. This is not on the West Bank and Gaza. This
11 is happening right here in the United States. There is
12 El-Mezain, and there is shake Jamil Hammimi.

13 (Tape played).

14 MR. JONAS: All right. The second tape, the
11:07 15 second segment.

16 There we see the Defendant Mufid Abdulqader's
17 band, and Mufid Abdulqader is second from the left. Here
18 we see the Defendant Shukri Abu Baker encouraging people
19 to dance and sing, a song about blood. You see children
20 dancing to this song.

21 (Tape played).

22 MR. JONAS: The Defendant Shukri Abu Baker
23 introducing Mohamed El-Mezain to come up and raise funds.

24 (Tape played).

25 MR. JONAS: Talks about honored guests, members

11:10 1 of the Palestine Committee, member of the military wing
2 initially.

3 (Tape played).

4 MR. JONAS: This is before the HLF changed their
5 name obviously and moved out here to Richardson.

6 (Tape played).

7 MR. JONAS: The next segment, more of what's
8 going on at this conference, this fundraiser. You see the
9 man who's singing is Fawaz Mushtaha. That's the guy who
10 buried the tapes in the backyard, right next to the
11 Defendant Mufid Abdulqader, one of the members of the
12 Palestine Committee.

13 Songs about HAMAS with the children on the stage
14 dancing.

11:12 15 (Tape played).

16 MR. JONAS: Defendant Shukri Abu Baker standing
17 in front of the stage.

18 (Tape played).

19 MR. JONAS: Next clip.

20 (Tape played).

21 MR. JONAS: Shukri Abu Baker announcing how much
22 they raised.

23 (Tape played).

24 MR. JONAS: Next clip. This is another skit
25 with the Defendant Mufid Abdulqader on the right. Someone

11:14 1 who's supposed to be Israel. Chanting I am HAMAS. You
2 can't get more clear than that. Next clip.

3 (Tape played).

4 MR. JONAS: Later on in this skit he pretends to
5 kill the person. Why would a charity put on a skit like
6 this to raise funds?

7 (Tape played).

8 MR. JONAS: Again, children on stage dancing
9 with Shukri Abu Baker in front of them.

10 (Tape played).

11 MR. JONAS: There is the Defendant Mufid
12 Abdulqader, clear shot.

13 (Tape played).

14 MR. JONAS: Shukri Abu Baker acknowledging and
11:17 15 thanking Mahmud Zahar and something sitting next to
16 El-Mezain. This is an example of what goes on at an HLF
17 fundraiser.

18 Now, besides themselves getting up on stage to
19 raise funds, the HLF also brought in speakers and
20 fundraisers. They have had other people that they use.
21 We know that the Defendant Mufid Abdulqader obviously was
22 a fundraiser for them as early as the early 90's up
23 through 2001. We saw on one phone, 18-5, where he was
24 bragging to someone else how much money he was raising at
25 fundraising. We saw a list of domestic speakers; that is,

11:18 1 speakers who live in the United States and travel around
2 the United States on behalf of Holy Land Foundation
3 raising funds. We also saw that they brought in speakers
4 from overseas and Agent Miranda went through with you a
5 list that was taken from a Holy Land computer that was
6 dated 1999 that lists out the speakers. And what I would
7 like to do is put up and enlarge comments of this list.
8 The government has it marked as 24-62 for the record. But
9 Government's Exhibit 1-6 is the original exhibit. And if
10 you see we have names, phone numbers, home, work and fax
11 numbers, and you see all of these dots next to the
12 speakers, and I'm not going through each speaker and what
13 each dot represents. Agent Miranda went through that with
14 you. Each dot represents how these individuals are
11:19 15 connected, either to HAMAS or something called the Islamic
16 Action Front which was the Muslim Brotherhood organization
17 in Jordan. Basically, HAMAS's sister organization there.
18 Islamic Action Front were the HAMAS leaders when they were
19 in Jordan. That's where it operated out of.

20 Basically the ways that the government connected
21 each individual with a dot to HAMAS are several. One is
22 they are identified as such by either Dr. Levitt or Mr.
23 Avi. Another way is a lot of these people, their name and
24 number are in the phone book of Mousa Abu Marzook, the
25 leader of HAMAS. Another way is the senate letter, 21-58.

11:20 1 This is the letter sent from HAMAS to Senator Orin Hatch
2 protesting Marzook being detained. If you look at the
3 bottom of the letter underneath the name of the HAMAS
4 spokesman, Ibrahim Ghousbeh, we see the telephone number
5 and fax number for the HAMAS. That same phone and fax
6 number are contained next to the names of several of these
7 speakers.

8 We also know that some of these speakers of
9 HAMAS were Islamic Action Front because of a pamphlet that
10 was found at HLF listing them out as such, Islamic Action
11 Front members. So we see there are multiple ways that
12 these individuals -- many, many of these individuals that
13 Holy Land Foundation brought into the United States to
14 raise funds on its behalf are connected to HAMAS.

11:21 15 And I want to give you now a flavoring of the
16 philosophy of some of these speakers and what some of
17 these speakers had to say. Government's Exhibit 1-343 was
18 a tape of a man named Abu Zant who's on here, Number 7,
19 Abu Zant. In that tape, he said -- this is a tape that
20 was seized from the Holy Land Foundation, not just some
21 random tape that the government found. On that tape, he
22 talks about praying to bring failure to the
23 reconciliation, plot with the Jews, Oslo Accords. He goes
24 on to discuss the bodies of American soldiers being
25 dragged through the streets of Somalia, and then he goes

11:22 1 on to discuss HAMAS, praising HAMAS. This is the type of
2 speaker that HLF is bringing in to raise funds on its
3 behalf. Is this what a charity would do? Mohammed Syam,
4 a well known HAMAS leader. He's the one that met with
5 Ashqar on that dispute between Ashqar and the HLF
6 fundraising. Let's play a little clip of what Mohammed
7 has to say. This is one of the video tapes found in the
8 home of Fawaz Mushtaha.

9 (Tape played).

10 MR. JONAS: He's talking about children
11 committing terrorist acts against Israeli soldiers.
12 Giving them a jar of what appears to be water, and it's
13 nitric acid and lighting a match and running away. Giving
14 them a fig that has poison. This is what Shukri Abu Baker
11:23 15 denied one face to the public and one face to HAMAS.
16 There was a phone call between Shukri Abu Baker and
17 Reporter Gail Reeves. 1-68. We'll play that.

18 (Tape played).

19 MR. JONAS: We have just seen the video tape of
20 the band of the Defendant Mufid Abdulqader brought in by
21 the Holy Land to raise funds at a Holy Land conference
22 singing songs about HAMAS at a conference in the United
23 States that was geared towards HAMAS supporters in the
24 United States. Now we see him on the phone with an
25 American reporter who's writing a story where he says, "Oh

11:25 1 no, we never talked about HAMAS. We never had anything to
2 do with HAMAS." That's not true. Next clip, please.

3 (Tape played).

4 MR. JONAS: We're not sponsoring speakers from
5 HAMAS. Look at this list. This is a list that came from
6 the Holy Land Foundation. Look how many people they
7 sponsored from HAMAS. Again, he's deceiving the reporter.
8 Last clip, please.

9 (Tape played).

10 MR. JONAS: Not true, not true. This was a call
11 in 1996 after HAMAS was designated as a terrorist
12 organization. Now, some of the speakers that the HLF used
13 to raise funds didn't come to the United States. Some of
14 them -- Some of them don't always appear in person. One
11:27 15 of the tools the HLF used was that they would have these
16 conference calls set up where people could call a number,
17 like an eight hundred number or something, and listen in
18 to a speaker. One such call, Government's Exhibit 13-170,
19 is a speaker who appears to be from Pakistan who gives a
20 political speech on behalf of HAMAS, and the moderator
21 thanks him on behalf of Holy Land Foundation. Why would a
22 charity have a speaker come in to raise funds for HAMAS?
23 Something involving one of these conference calls in 1997
24 involving Mohammed Syam. We saw him on the video clip
25 talking about the girl with the gasoline and Hamed

11:28 1 Beitawi, one of the speakers that HLF supported. One of
2 the calls involving these gentlemen says -- Yaish, Yassin,
3 Mousa Abu Marzook, that's the trifecta of HAMAS members.
4 Yaish, also known as the engineer, who's one of the
5 leading figures of the military wing of HAMAS. Sheikh
6 Yassin, we know is a spiritual leader. Mousa Abu Marzook,
7 the leader of the political wing. So this speaker goes on
8 in this conference call and talks about HAMAS and the
9 leaders of HAMAS and then what happened? At the end of
10 the call the moderator says, "Give your donations to the
11 Holy Land Foundation." The HLF is using these types of
12 speakers to raise funds on its behalf. They could have
13 brought in other prominent Palestinians, other prominent
14 Muslims from other countries who are not part of a
11:29 15 terrorist organization. They chose to bring in these
16 people because that's part of their philosophy and what
17 their job is, to raise funds for HAMAS.

18 Another way that they raise funds, they took
19 other speeches -- speeches of people who may not have been
20 at the conference and put their stamp on it. Give to OLF
21 and that's being Occupied Land Fund. An example of that
22 is a man named Abdallah Azzam who Dr. Levitt talked about
23 being a well known HAMAS figure until he was killed a
24 couple of years ago. Now, let's look at 2-22 B a video of
25 the fundraising that took place in Los Angeles.

11:30 1 (Tape played).

2 MR. JONAS: Talks about Abdallah Azzam, who
3 visited them two years ago. Let's play the speech of
4 Abdallah Azzam and see what he says. 13-22, I believe.

5 (Tape played).

6 MR. JONAS: He talks about buying weapons,
7 bombs, and he talks about Jihad that runs on life and
8 money. Economic Jihad. Let's see what happens later on
9 in that speech.

10 (Tape played).

11 MR. JONAS: Send your donations to the Occupied
12 Land Fund. By putting this on the tape after the speech,
13 they are endorsing what he has to say. They are saying
14 "Listen to this man. Listen to this man talk about buying
11:35 15 weapons. Listen to this man talk about committing Jihad
16 with the money and send us your money, give your donations
17 to us." Is this what a regular charity would do?

18 Another way they raise funds is through Ila
19 Filistine, the magazine that the IAP published. I want to
20 turn your attention to Government's Exhibit 21-8. This is
21 a different issue of Ila Filistine than the one we saw
22 earlier where Shukri Abu Baker had the ode to HAMAS. On
23 the cover of this one, we see Abdel Azzam coincidentally.
24 Turn to Page 8. The title of this article is "An Intifada
25 of Our People Knocks on the Door of Its Third Year With

11:36 1 More Determination, Persistence and Heroism." The middle
2 of the article talks about HAMAS, the leadership of HAMAS,
3 "giving it their confidence, moves along with it and by it
4 in the most wonderful Jihad march which brings anxiety to
5 the enemy and shakes the ground from under its feet." It
6 talks about liberating Palestine through Jihad and talks
7 about HAMAS. And then on the next page in the middle it
8 says "The Islamic Association in North Americas calls upon
9 all of you to do the following in support of the people of
10 the Intifada and your homeland and to make the cause of
11 Palestine victorious. First: we call on all of you to
12 perform jihad with your money for the sake of God by
13 donating the maximum amount you can to support the
14 Intifada of your people in Palestine. You may send your
11:37 15 donations in the name of the Occupied Land Fund."

16 So they are asking people to support HAMAS by
17 sending their money to Occupied Land Fund, the Holy Land
18 Foundation. So we see the image of HAMAS throughout all
19 of Holy Land Foundation's ways of raising funds -- at the
20 conference, through the speakers they bring in, through
21 the speakers they have at the conference calls, by placing
22 their ad or their name on tapes of Abdallah Azzam, by
23 putting this in Ila Filistine magazine.

24 By the way, in discussing this Ila Filistine,
25 Ms. Hollander questioned Agent Burns about ads placed by

11:37 1 other companies. And what you don't see is the other
2 companies that people are directed to send their donation
3 to. Only Occupied Land Fund. So what sort of a message
4 did HLF send to the Muslim community, supporters of Muslim
5 Brotherhood and HAMAS? They send the message that we are
6 HAMAS. We saw letters written by the HLF to the HAMAS,
7 2-77, 2-11, where someone writes about publications that
8 Shukri Abu Baker used to send to this woman about HAMAS.
9 2-77 is someone sending money saying "God bless you and
10 all the honorable brothers who perform the best of
11 charitable deeds which support the Mujihadeen in the
12 Occupied Land." 2-8, all of these are letters.
13 Government's Exhibit 5-24 which is the bank records.
14 Someone writes Mujihadeen in the memo section of a check
11:39 15 to the HLF. Why would people write these types of letters
16 to the HLF unless they knew that the HLF was supportive of
17 HAMAS? Another letter we saw, 1-56, Page 2. This was a
18 letter found in the HLF office of New Jersey, the office
19 run by the Defendant Abdulraham Odeh. This letter says
20 Salaam Alikum. Enclosed is a modest contribution for our
21 people suffering from Jewish/Christian Western crimes.
22 Insallah, both will be defeated/slaughtered and kicked out
23 of Islamic Lands. This is for relief supplies and weapons
24 to crush the hated enemy. Thank you, Sultan Mahmoud. And
25 it goes on. Why would this person write this letter to

11:40 1 the HLF unless he knew the HLF was all about? We see
2 similar language in the HAMAS charter. More importantly,
3 why are would the HLF hold onto this letter that's dated
4 in 1996 for five years until they were shut down? Why
5 would the Defendant Abdulrahman Odeh notify the main office
6 in Richardson that this man sent us a contribution and
7 that his name ends up on their mailing list and they send
8 him -- granted it's a boilerplate letter but a letter
9 soliciting more funds. And even though Mr. Westfall
10 pointed out the address in the letter was wrong, that they
11 sent it back to New Jersey, that's not the point. The
12 point is they kept the letter, the donation and put him on
13 the mailing list. Again, why would this person write to
14 the HLF with this language?

11:41 15 Well, we see -- we see why. Government's
16 Exhibit 3-85. This was one of the El Barasse documents,
17 it talks about the creation of the Palestine Committee,
18 the HLF, their support for HAMAS. And 3-85, Page 21,
19 "Number 4. Understanding the role of the Muslim
20 Brotherhood in North America. The process of settlement
21 is a civilization jihadist process with all the word
22 means. The Ikhwan must understand their work in America
23 is a kind of grand Jihad in eliminating and destroying the
24 western civilization from within and sabotaging its
25 miserable house by their hands and the hands of believers

11:42 1 so that it is eliminated and God's religion is made
2 victorious over all other religions."

3 That's very similar to the language in the
4 letter we saw written by that guy to the HLF. Again, that
5 is the message that they are sending to their supporters.

6 Okay. I have talked about the creation of HLF,
7 the Palestinian Committee, the defendants' own expressions
8 and beliefs in support of HAMAS. I talked about how they
9 raised funds for HAMAS. We know they raised millions of
10 dollars over the years.

11 Now let's turn our attention to what they did
12 with that money. I talked about economic Jihad. We have
13 seen that in Ila Filistine magazine. We have seen
14 Abdallah Azzam preach where he talks about giving your
11:42 15 money to Jihad. We have heard Khalil Mishal the leader of
16 political bureau talk about Jihad. If we could play 3-77.
17 This is an interview of Khalil Mishal that was seized from
18 the home of El Barasse.

19 (Tape played).

20 MR. JONAS: He talks about doing Jihad with your
21 souls and your money. And that is the function that the
22 HLF played in the United States. They were the ones to
23 help people do Jihad with their money and who better to do
24 that than someone you trust? Next clip, 3-77 B. Also
25 part of that same interview.

11:44 1 (Tape played).

2 MR. JONAS: Americans ears are listening. Get
3 your money to someone you trust, and they will get the
4 money to HAMAS. Who better to trust than family? The
5 Defendant Mufid Abdulqader is the brother of that man we
6 just heard, Khalil Mishal. We know that the Defendant
7 Ghassan Elashi is related by marriage to Mousa Abu
8 Marzook. We know that these defendants were very close to
9 the leaders of HAMAS. Who better to trust?

10 We have heard a lot of testimony from Mr. Avi
11 and Dr. Levitt and some of the defense witnesses about the
12 Zakat Committees that the HLF supported. Before we talk
13 about the Zakat Committees, I want to talk about someplace
14 else that HLF sent its money to. Over the years they set
11:46 15 up offices in the West Bank and Gaza, and they set up bank
16 accounts, and they sent millions of dollars over there and
17 some of that money was directed to Zakat Committees and
18 some wasn't. What they did with some of the money is they
19 supported families. And they specifically targeted
20 families of martyrs and prisoners. They went beyond that
21 as well. I'm not saying they only supported martyrs'
22 families and prisoners. But that was something they
23 focused on. The HLF was helping HAMAS take care of its
24 own. And when HAMAS knew their families were cared for,
25 they could continue the fighting. We played a second of

11:46 1 the Khalil Mishal interview where he talks about focusing
2 on the martyrs and prisoners. We know the Philadelphia
3 conference, 16-63, they said you have the issue of
4 sponsoring the families of martyrs. You have the
5 prisoners, but those people have a direct relationship
6 with Jihad, and they must get more money and more thought.
7 In our letters we sent to people we ought to place
8 emphasis on the family of martyrs, the prisoners and the
9 orphans and the families of the wounded. And we see
10 letters to the HLF where they talk specifically about
11 supporting the families of martyrs and prisoners. We know
12 that the Defendant Odeh supported the family of Yaish the
13 engineer, one of the leading figures of the military wing
14 of HAMAS. Why would a charity specifically identify --
11:47 15 this special segment of the Palestinian society -- special
16 segment is a term Mr. Avi used -- to support above others.
17 Why would a regular charity do that. It wouldn't. We
18 also know that the HLF sent money to its offices over in
19 the West Bank and Gaza. They have directed a large amount
20 of that money to be furthered to HAMAS money changers.
21 Ms. Hollander showed you that some of that money may have
22 been used to purchase food and produce and other supplies.
23 Why pick a HAMAS money changer to send money through? Why
24 not a bank or regular money changer? Because again, they
25 are supporting HAMAS.

11:48 1 I want to turn my attention now to the Zakat
2 Committees. That's what this case is about, supporting
3 those Zakat Committees. Mr. Avi from the ISA talked about
4 outside organizations, organizations not located in the
5 West Bank or Gaza, very similar to the HLF. There were
6 charities set up in other countries whose main goal is to
7 support HAMAS. He talked about -- He identified these
8 organizations by certain criteria that he had, including
9 the way they raise their funds, using the same type of
10 speakers, the relationship between the leaders of the
11 organizations and the leaders of HAMAS and where these
12 organizations sent their money. He identified a few of
13 the organizations, including InterPal in London, CVSP in
14 France and Al-Aqsa in Germany as well as the HLF. Those
11:49 15 organizations operated in the same manner with the same
16 goals and purpose as the HLF, and they are all part of one
17 network. And what we know is that the HLF helped set up
18 this network. Government's Exhibit 3-15, one of the El
19 Barasse documents again, talked about Palestine committees
20 being set up in other countries. Well, 3-8, Page 6. This
21 is a document entitled "The OLF report." This is the
22 Occupied Land Fund reporting on its activities to the
23 Palestine Committee. At the bottom of this page where it
24 says "The Central Committee for Charity Work," it says
25 "Brother Ghassan" -- that's the Defendant Ghassan

11:49 1 Elashi -- "is currently on a visit to Britain representing
2 the Fund" -- Occupied Land Fund and the Holy Land
3 Foundation -- "in order to study the possibility of
4 forming a substantial committee for charity work
5 affiliated with the apparatus in all the countries with
6 the goals of coordination, exchange of experiences and
7 finding the best ways to increase donations and quickly
8 respond to the request of the people on the inside." The
9 inside being HAMAS.

10 Here we see this outside network of charities in
11 other countries that were helped to be formed by the Holy
12 Land Foundation, and what those organizations did -- what
13 the HLF did -- is send a large amount of money to these
14 Zakat Committees located in the West Bank and Gaza.

11:50 15 Now, we heard testimony from Dr. Levitt that the
16 Zakat Committees are the ways that the social wing of
17 HAMAS implemented its aid to the Palestinian people. They
18 are the ones who ran the schools, who ran the hospitals.
19 They set up mosques, and they did other things, and we
20 heard from Mr. Avi that there are hundreds of Zakat
21 Committees throughout the West Bank and Gaza. And HAMAS
22 does not control all of them. HAMAS controls only a small
23 percentage, and if someone wanted to really help the
24 Palestinian people, help them without going through a
25 terrorist organization, there are certainly ways and

11:51 1 avenues that they could do so, but these defendants
2 because they are part of HAMAS chose particular Zakat
3 Committees that were run and controlled and operated by
4 HAMAS in order to send their money. They sent it to the
5 committees in Jenin, Ramallah, Qalqilla, Islamic
6 Charitable Society of Hebron, Islamic Society in Gaza.
7 These are some of the names we heard.

8 One of the committees they sent money to,
9 Islamic Relief Committee. Islamic Relief Committee, as
10 Mr. Avi said, was set up by HAMAS in the early 90's to
11 sort of be a funnel of money to the Zakat Committees. And
12 while the HLF sent money directly to the Zakat Committees,
13 at the same time they were sending money to the Islamic
14 Relief Committee. They sort of did both. Mr. Avi
11:51 15 identified Islamic Relief as HAMAS. Mr. Abington, the
16 defenses' own witness, identified the Islamic Relief
17 Committee as being HAMAS. And if we could pull up 20-12,
18 this is a schedule of payments between the Holy Land
19 Foundation and the Islamic Relief Committee. Last page.
20 We see that between 1991 and 1996 after HAMAS is initially
21 designated as a terrorist organization, the Holy Land
22 Foundation gave almost 1.5 million dollars to the Islamic
23 Relief Committee. And if you look at Government's Exhibit
24 3-65 of the El Barasse documents, this is a document that
25 came from the Islamic Relief Committee, and you'll see

11:52 1 what they are about. They talk about violence and getting
2 weapons to carry out Jihad operations. So this particular
3 Zakat Committee is not about helping people. It's all
4 about helping HAMAS, the social wing and the military
5 wing.

6 Now, Mr. Avi in identifying particular Zakat
7 Committees being controlled by HAMAS talked to you about
8 the criteria it had in determining whether one Zakat
9 Committee is HAMAS and one Zakat Committee is not. And it
10 wasn't just posters found there. As Mr. Abington said and
11 Dr. Brown said, just because you have posters there
12 doesn't mean it's HAMAS. Mr. Avi didn't look at just
13 posters. He looked at a whole range of materials,
14 including who ran the committees. What else was there
11:53 15 besides HAMAS internal documents? He looked at videos
16 that were seized in the committees, and we have also seen
17 documents that the defendants had access to that were
18 created here in the United States identifying the Zakat
19 Committees as HAMAS. I want to talk about these
20 committees.

21 Your Honor, this may be a good time for a break.
22 I know we're a few minutes early.

23 THE COURT: Ladies and Gentlemen, we'll be in
24 recess for lunch until 1:20.

25 (Jury out).

11:54 1 THE COURT: Mr. Jonas, you have used almost two
2 hours and nineteen minutes of your time. You had said
3 earlier that you might want during the noon recess to ask
4 me for warnings about your time, and I wanted to ask if
5 you had made any decision about that or if you wanted to
6 think about it.

7 MR. JONAS: No, your Honor, I'm going a little
8 faster than I expected. So I think I am going to come
9 well within my four hours. Thank you. Thank you for the
10 early break.

11 THE COURT: Yes, sir. And I wanted to ask a
12 procedural question for the defendants' counsel, and that
13 is whether we will be going in the order of the indictment
14 or if there is some other order that's been agreed upon.

11:55 15 MS. HOLLANDER: There is another order. I'm not
16 actually sure what it is, except that I know that I'm
17 first. That's as far as we'll get today I'm sure.

18 THE COURT: What about the allocation of time?
19 Is there going to be an equal division of time?

20 MS. HOLLANDER: No, it's not.

21 THE COURT: Okay, I will want to know that ahead
22 of time because I don't want one of the later counsel who
23 runs out of time to tell me, well, I had such and such,
24 and I wasn't told that ahead of time.

25 MS. HOLLANDER: I can tell you that I am first,

11:55 1 and that my allocation of time is approximately an hour
2 and a half.

3 THE COURT: Why don't you work out all the
4 details between now and the time that defense closing
5 arguments begin, and let me know what that division is.

6 MR. GARRETT: Your Honor, I wanted to bring one
7 thing to your attention. The defense in regard to the
8 jury instructions -- the defense had objected to one
9 particular issue, the lack of an element in the 2239(B)
10 charge connecting the knowledge that the committees were
11 operating for or on behalf of HAMAS, and we have looked at
12 that closely on the government's side, and we agree there
13 is something to that, and what I'm suggesting is we may
14 work on some suggested language just for that one element
11:56 15 that we would propose to your Honor. We don't have that
16 now, and I don't think it has to be right now, but we have
17 talked to defense counsel about it, and I wanted to put
18 you on notice that we may offer something to your Honor
19 for your consideration on that issue.

20 THE COURT: All right. Sooner would be better
21 than later. We'll be in recess for lunch until 1:20.

22 (Recess)

23 THE COURT: Good afternoon, Ladies and
24 Gentlemen. Go ahead, Mr. Jonas.

25 MR. JONAS: Thank you, your Honor. Before we

13:24 1 broke for lunch, I was talking about what the HLF did with
2 their money, how they themselves focused on a special
3 segment of society, being children and families of
4 prisoners and martyrs and how they committed economic
5 Jihad on behalf of HAMAS. I want to talk about the Zakat
6 Committees that we have heard a lot of testimony about and
7 how this money went to the Zakat Committees as part of
8 their mission, in fact a completion of their duties. They
9 raised money in the United States and sent it to the
10 social wing of Zakat Committees and that completes their
11 role. I want to start off going committee by committee.
12 I want to start with the Nablus Zakat Committee. First,
13 20-6.

14 This is a schedule of the payments between the
13:25 15 Holy Land Foundation and the Nablus Zakat Committee. And
16 again, I just want to point out the column that says
17 direct versus indirect. Just to remind you what that
18 means is if it's direct it's a payment that went straight
19 from HLF here in Dallas to the Zakat Committee's bank
20 account wherever that may be. If it's indirect, the money
21 went from HLF's account to an account in Gaza and from
22 there it was forwarded onto the Zakat Committee. We see
23 starting in 1991 when the HLF starts to make payments to
24 this committee, and it ends in 2001. The HLF paid almost
25 half a million dollars to the Nablus Zakat Committee.

13:26 1 The HLF, besides just making payments to the
2 committee, they had several other connections to the
3 Nablus Zakat Committee. This is part of the Power Point
4 presentation that Agent Burns went through with you when
5 Mr. Garrett was questioning her, and I'm not going to pull
6 up all the exhibits. I just want to show you this
7 represents the letters and the correspondence going back
8 and forth between the Nablus Zakat Committee and the HLF.
9 So it goes to show the HLF wasn't just blindly sending
10 money to this committee. They actually had a more
11 substantial relationship with the organization.

12 Now, the Nablus Zakat we know was controlled by
13 HAMAS for a few reasons. One of those reasons is several
14 of the leaders and members at random were HAMAS members
13:27 15 themselves, and this was identified by Mr. Avi. But it
16 wasn't just Mr. Avi saying this. One of those
17 individuals's names was Hamed Beitawi. I mentioned his
18 name before. If you recall the dispute between HLF and
19 Ashqar when Ashqar brought Hammimi into the United States
20 to raise funds, it was Hamed Beitawi that went to see
21 Ashqar to help resolve the dispute. We know that Beitawi
22 was HAMAS, and we know the defendants knew from a video
23 tape that was seized from the HLF. This is a video that
24 is made of HAMAS deportees in Lebanon in the early 90's,
25 and we see them sitting around identifying themselves.

13:28 1 1-318.

2 (Tape played).

3 MR. JONAS: You see the symbol for HAMAS appear
4 on the screen? This isn't something that the government
5 prepared. This is as found at the offices of the HLF.

6 (Tape played).

7 MR. JONAS: There are several other individuals
8 here who are part of the committees that are
9 HAMAS-supported. I wanted to point out this individual,
10 Mohammed Abu Zeid, is one of them.

11 (Tape played).

12 MR. JONAS: The last person we saw Hamed Beitawi
13 of the Nablus Zakat Committee was one of the members of
14 HAMAS. I misspoke when I said Beitawi was one of the
13:33 15 individuals that went down to settle a dispute between
16 Ashqar and HLF. That was Mohammed Syam. I promised you
17 don't have to worry about the names, and I'm not reading
18 off the name, but remember that there are three other
19 members identified by Mr. Avi who were running the Nablus
20 Zakat Committee and also members of HAMAS. Besides the
21 leadership of the committee being HAMAS, there was also --
22 And we have seen a series of exhibits of things found at
23 the Nablus Zakat Committee, posters. 6-61, a poster of an
24 individual who was part of the military wing of HAMAS.
25 There was 6-76, post cards of two HAMAS military members.

13:33 1 6-77, a key chain of Sheikh Yassin. 6-79, a key chain of
2 the famous engineer, Yaish, a military member. 6-75, this
3 was a video tape that was found at the Zakat Committee.
4 And we'll play a short segment of this video.

5 (Tape played).

6 MR. JONAS: What he is talking about is military
7 operations committed by the HAMAS military wing. As you
8 can see, he's standing there holding the gun, and this
9 tape was found at the Nablus Zakat Committee. Now, if
10 these Zakat Committees are independent organizations, why
11 would they have a video like this in its possession? We
12 have also seen exhibits here in the United States showing
13 the Nablus Zakat as HAMAS, including some of the El
14 Barasse documents, Government's Exhibit 3-7. On that
13:35 15 document it identifies Sheikh Hamed Beitawi, the man in
16 the video tape, as being part of HAMAS. 4-21 also talks
17 about the Nablus Zakat Committee having Islamists on its
18 board. The Ramallah Zakat Committee, 20-8. This is a
19 scheduled payment between the Holy Land Foundation and the
20 Ramallah Zakat Committee.

21 You see this shows when HAMAS was designated as
22 a terrorist organization in 1995, the payments started way
23 before then, and they continued on until way after then.

24 All of these payments to a HAMAS-controlled
25 Ramallah Zakat Committee.

13:36 1 You see that over the years HLF paid Ramallah
2 over half a million dollars.

3 Again, this is a listing -- besides money, a
4 listing of the correspondence and relationship between
5 Holy Land Foundation and the Ramallah Zakat Committee.
6 Now, Mr. Avi talked about several members of that
7 committee who are part of HAMAS, some of whom are part of
8 the military wing. Dr. Levitt talked about an individual
9 named Abdel Hamdam who was connected to planning suicide
10 attacks. Remember I told you earlier one thing the social
11 wing does is give cover to the members of the military
12 wing, and we see that right here with a member of this
13 Zakat Committee who was involved in committing military
14 attacks, terrorist attacks.

13:37 15 Government's Exhibit 3-7, Page 4. I'm only
16 going to pull this document up once, but this document
17 refers to most of the Zakat Committees I will be talking
18 about. As you can see, on the left they mention all of
19 them. Ramallah Zakat Committee, all of it is ours. Now,
20 this document was found along with the other El Barasse
21 documents about the Palestine Committee and the purpose of
22 Palestine Committee and the goals and all of that. So
23 when it says all of it is ours, what do you think they are
24 talking about? Clearly, they are talking about HAMAS,
25 that the Zakat Committee is ours. It's HAMAS. When you

13:37 1 take this in conjunction with the leaders of the Ramallah
2 Zakat Committee being HAMAS members, it's clear that this
3 committee is part of the HAMAS social infrastructure. The
4 Tulkarem Zakat Committee, 20-9. HLF started supporting
5 the Tulkarem Zakat Committee as early as 1991. We see
6 payments going all through the years -- Last page,
7 please -- up through 2001 when they sent a total of over
8 \$315,000 to the Tulkarem Zakat Committee. Once again, we
9 have letters, correspondence, going back and forth between
10 the Holy Land Foundation and the Tulkarem Zakat Committee.
11 We heard from Mr. Avi that there are six or seven
12 individuals of the Tulkarem Zakat Committee who are
13 connected with HAMAS. And Mr. Avi is not just coming up
14 with that. He's relying upon multiple sources to make
13:39 15 that identification, including interviews of Khalil
16 Mishal -- the leader of HAMAS -- statements made by HAMAS
17 members to the Israel police as well as other public
18 identification of these individuals.

19 In the Tulkarem Zakat, there were posters of
20 HAMAS members found, posters of HAMAS military members,
21 posters of HAMAS leaders, Government's Exhibit 6-35 and
22 the 6 series of documents are all of these documents that
23 the Israelis found at these Zakat Committees. 6-57 was a
24 poster of Yaish the engineer holding a gun in one hand.
25 This is a picture in a frame. He's holding a gun in one

13:40 1 hand and his child in the other. We have several other
2 posters found of HAMAS leaders at this committee. I'm not
3 going through all of them, but you will have them back in
4 the juryroom, and you can look at them when you
5 deliberate. We also know that in the Philadelphia
6 conference they talked about the Zakat Committees.
7 Government's Exhibit 16-59, they talk about the Tulkarem
8 Zakat Committee, the fact that it's building a hospital.
9 3-7, the document I pulled up before talks about Tulkarem
10 and the members and supporters.

11 So again, the evidence shows these committees
12 are HAMAS. Divers, not one source. Coming from multiple
13 sources. Some of the sources are only available to the
14 defendants. Some of those sources were not available to
13:40 15 the defense Wednesday, Mr. Abington or Mr. Brown.
16 Bethlehem Orphans Care Society, 20-10. Now, the Bethlehem
17 Orphans Care Society started out in 1997 when Ghassan
18 Harmas left a different society that the HLF was
19 supporting which was the Bethlehem Charity. In 1997, he
20 leaves the Bethlehem Charity and starts the Bethlehem
21 Orphans Care Society and HLF support goes with him. If we
22 continue on through this document, you will see that it
23 changes from Bethlehem Charity to Bethlehem Orphans Care
24 Society.

25 Now, Ghassan harms, as I said, he was the one

13:41 1 that left the Bethlehem Charity and formed the Bethlehem
2 Orphans Care Society. Remember when you think of orphans,
3 their definition as used by the defendants is not the same
4 as what most people think of. It's not both parents being
5 deceased. It's only the father that is deceased. And we
6 know Ghassan Harbas was a member of HAMAS identified by
7 Mr. Avi as well as other members of the Bethlehem Orphans
8 Care Society. Government's Exhibit 3-7 says "We have
9 seven out of eleven including Ghassan Harbas, an honorable
10 man." I'm not going to pull these up every single time.
11 But this exhibit shows again there is other correspondence
12 between the HLF and Bethlehem Orphans Care Society showing
13 the connection between the two.

14 The Islamic Science and Culture committee. This
13:42 15 is a committee run by Jamil Hammimi. You have heard about
16 it several times. Jamil Hammimi is the one at the center
17 of the dispute between HLF and Ashqar. Hammimi is the one
18 who had a falling out with HAMAS back in 1997 or
19 thereabouts until years later when they made up.
20 Government's Exhibit 20-4, this is a scheduled payment
21 between the HLF and the Islamic Science and Culture
22 Committee, Jamil Hammimi's committee. The last page, you
23 see that the payments ended in 1996 which was when Jamil
24 Hammimi -- around the time that Hammimi has a falling out
25 with HAMAS. We know that Jamil Hammimi was an overseas

13:43 1 speaker for the HLF. We know he was one of the founders
2 of HAMAS in the West Bank. We know there were several
3 other people connected to the Zakat Committee that were
4 identified as being members of HAMAS.

5 In the Philadelphia conference, they talked
6 specifically about Jamil Hammimi and the Islamic Science
7 and Culture Committee. They said in Jerusalem there
8 remains some organizations, particularly the Islamic
9 Science and Culture Society, which is directly counted
10 with us. Who do they mean when they talk about us?
11 HAMAS.

12 Government's Exhibit 3-7 talks about Islamic
13 Science and Culture. We have three of our people on it.
14 So again, you have a lot of different evidence pointing to
13:44 15 the fact that that committee is controlled by HAMAS.

16 Qalqilla Zakat Committee, 20-7, another
17 committee supported by the HLF through the years starting
18 in 1992 going up to 2001 when they gave the Qalqilla Zakat
19 Committee over \$284,000. There was at least three known
20 HAMAS members running this organization. And 3-7, an El
21 Barasse document, when they refer to the Qalqilla Zakat
22 Committee they said "All of it is ours, and it is
23 guaranteed." They also talked about the Qalqilla Zakat
24 Committee in the Philadelphia conference.

25 The Islamic Society, 20-14. Payments went to

13:45 1 the Islamic Society from 1992 until 2001. \$300,000 and
2 the ILS is Israeli shekels. That's not included in the
3 computation of \$300,000.

4 This was a society that was founded by Sheikh
5 Yassin in the seventies as a Muslim Brotherhood
6 organization and became a HAMAS organization once HAMAS
7 was formed. And it has several significant members that
8 are HAMAS, some of whom we saw in the video tape of the
9 deportees sitting around in the tent, and you know there
10 was a second part of that video tape that I forgot to
11 play. We can play it now. 318 B.

12 (Tape played).

13 MR. JONAS: The Defendant Mohamed El-Mezain, the
14 Defendant Shukri Abu Baker.

13:48 15 So we see this gentlemen sitting around the tent
16 with the deportees who are identifying themselves as
17 HAMAS. Some of whom are identifying themselves as being
18 part of the same Zakat Committees HLF supported, and this
19 individual is talking about coming to the United States at
20 the invitation of the Holy Land Foundation and two of
21 these defendants.

22 We have Government's Exhibit 4-21 that talks
23 about the Islamic Society being part of HAMAS. 3-65,
24 another El Barasse document, talks about it. Another
25 Zakat Committee, Islamic Charitable Society of Hebron. If

13:49 1 we could pull up 20-3. I'm sorry. Before we do that,
2 before we leave Islamic Society, there is another short
3 clip I want to play of a video tape. This video tape was
4 played for Dr. Levitt and Mr. Avi, and it was played for
5 you to evaluate their testimony when talking about the
6 Zakat Committees and HAMAS. Mr. Avi told you this was not
7 found at the Islamic Society but downloaded off the TV of
8 a kindergarten ceremony of the Islamic Society, and he
9 discussed it when he was explaining to you how Islamic
10 Society is part of HAMAS.

11 (Tape played).

12 MR. JONAS: There is the suicide belt on the
13 child. A child dressed as Sheikh Yassin, the one in the
14 white. I don't know if you remember this, but that song
13:51 15 was playing in the background and was one of the songs
16 that the Defendant Mufid Abdulqader was singing in the
17 tapes I played this morning.

18 (Tape played).

19 MR. JONAS: When Dr. Levitt and Mr. Avi were
20 talking about the Zakat Committees and their support for
21 HAMAS, part -- one of the things they were relying upon is
22 videos like this. The Islamic Charitable Society of
23 Hebron. 20-3. This society was a very large one that has
24 several branches, at least five branches identified by Mr.
25 Avi. And we see payments going not just to the Islamic

13:52 1 society in Hebron but also payments to some of the
2 branches of its organizations, and we see payments as
3 early as 1991 going up through 2001, almost 1.8 million
4 dollars going to the Islamic Charitable Society in Hebron.
5 Mr. Avi identified about six or seven individuals that are
6 part of this organization that are HAMAS members one of
7 whom, Nabil Natsheh, his name is in Marzook's phone book.
8 But there is another individual whose last name is also
9 Natsheh that we see in a video that was seized from this
10 organization. I want to play 6-58.

11 While that's being worked on, let me talk to you
12 about some of the other documents found at this zakat
13 committee. Posters, political statements, 6-22. This is
14 not a poster being shown to people walking in. This is an
13:54 15 internal HAMAS document. Government's Exhibit 6-66, what
16 was an internal document that talked about HAMAS
17 elections, and that document is written in very tiny
18 writing like it was supposed to be hidden or concealed
19 away. All of that was found -- That last document was
20 found in the office of Natsheh, the individual who's named
21 as part of this committee and is a well known HAMAS member
22 in Hebron. There is pictures of suicide bombers in a
23 child's frame and so forth. Government's Exhibit 3-7, the
24 El Barasse document with regard to the Islamic Charitable
25 Society of Hebron, it says "All of it is ours." In the

13:55 1 Philadelphia conference, they said "In Hebron, Hebron as a
2 city, is a place where we consider that we have a good
3 presence and weight as Islamic organizations such as the
4 Islamic Charitable Society which was founded in 1962 and
5 has over a thousand employees." From Philadelphia, they
6 are acknowledging that the Islamic Charitable Society of
7 Hebron is theirs. Some of the workers from the Islamic
8 Charitable Society went on to become part of the military
9 wing of HAMAS according to Mr. Avi. All right. Let's see
10 if we can play the video now.

11 (Tape played).

12 MR. JONAS: This is another one of those
13 kindergarten school ceremonies.

14 (Tape played).

13:57 15 MR. JONAS: What we see here is the children
16 holding rocket RPG launchers. And what we're going to see
17 in a minute if we can get up to that point --

18 (Tape played).

19 MR. JONAS: What she just did is identify the
20 man Abdel Natsheh as one of the leaders of HAMAS in Hebron
21 who's also part of this society in Hebron. So between the
22 items found there and between the leader being HAMAS, as
23 this woman told us, between the Palestine Committee
24 identifying all of it is ours, there is no question that
25 the Islamic Charitable Society of Hebron is HAMAS.

13:58 1 The last one, Jenin Zakat Committee, 20-5.

2 20-5 is the schedule of payments between the HLF

3 and the Jenin Zakat Committee, and those show to be from

4 the early eighties right up to 2001. Over the years the

5 HLF provided over \$600,000 to the Jenin Zakat Committee.

6 Now, we know that the Jenin Zakat Committee is a member of

7 HAMAS. One of the leaders of the Jenin Zakat Committee, a

8 man named Mohammed Fouad Abu Zeid, a man we saw on the

9 video a few minutes ago. Number 3-7 identifies Jenin as

10 theirs specifically because of Mohammed Abu Zeid. They

11 have at least six other members that have been identified

12 as being HAMAS members through different sources. Mr. Avi

13 said that Khalil Mishal identified some of these people.

14 Part of these people are from the military wing of HAMAS.

14:00 15 They have been involved in military attacks as identified

16 by Dr. Levitt. So you have at least six members of the

17 leaders running the committee for HAMAS. We have

18 postcards of Sheikh Yassin that were found there.

19 Government's Exhibits 6-71, 72, postcards of Rantisi,

20 another HAMAS leader. We showed you one of those

21 postcards. Mr. Avi told you that there are boxes of them.

22 And when someone walks into the Jenin Zakat Committee and

23 there boxes of postcards, what do you think they are doing

24 with those postcards? They are handing them out to

25 people. Hey, we're Jenin Zakat Committee, and we're

14:00 1 affiliated and part of HAMAS, and this is part of building
2 the loyalty and getting the hearts and minds, winning the
3 hearts and minds of the Palestinian population, letting
4 people know who that committee is with. Otherwise, if the
5 committee cannot take credit, HAMAS cannot take credit.
6 Then people aren't going to know who to support.

7 16-59, the Philadelphia conference, they talked
8 about the Jenin Zakat Committee. They say when -- "We
9 then come to the main activities which is the Zakat
10 Committees," and they talk about Jenin and having the
11 Jenin Zakat Committee running the largest Islamic school.

12 2-22, talks about the Jenin hospital, a hospital
13 run by the Jenin Zakat Committee, and that was the
14 document I went through with Mr. Abington where it talks
14:01 15 about ours, brother, semi-brother, distinctions between
16 Fatah which is the PLO organization that was running the
17 Palestinian Authority and Islamists which is what HAMAS
18 is.

19 So we see a lot of different sources of evidence
20 showing the Jenin Zakat Committee is HAMAS. The same time
21 a lot of these sources of evidence tell us -- show us that
22 the defendants knew the Jenin Zakat Committee and all of
23 these Zakat Committees are HAMAS. They talked about it in
24 Philadelphia. I encourage you to read Government's
25 Exhibit 16-59. You have 3-7, El Barasse document. You

14:02 1 have that video tape taken from the HLF of the deportees.
2 You have so many overseas speakers they brought in. Some
3 of the HAMAS overseas speakers are affiliated with these
4 Zakat Committees. And finally, you have your common
5 sense. If the Holy Land is part of the Palestine
6 Committee and if its role was to raise funds for HAMAS and
7 they bring in speakers and have conferences where HAMAS is
8 the theme of the day and they send their money to
9 HAMAS-controlled organizations, common sense tells you
10 that they know that they are sending their money to HAMAS.
11 Only that makes sense. When you deliberate you are
12 allowed to use your common sense.

13 I want to show you one more video that's taken
14 from the Jenin Zakat Committee. Government's Exhibit
14:03 15 6-82. This is of a summer camp.

16 (Tape played).

17 MR. JONAS: The Jenin Zakat Committee and these
18 other Zakat Committees run schools and camps to put guns
19 in children's hands. They dress them as suicide bombers
20 and re-enact terrorist acts all to brainwash these
21 children, and they did so with the money raised by these
22 defendants sitting behind me, and it wasn't just in the
23 West Bank and Gaza where they were brainwashing children.
24 They were doing it right here in the United States. I
25 want to show you some video tape seized from the HLF. If

14:04 1 we can show 1-314.

2 (Tape played).

3 MR. JONAS: Little children singing about HAMAS.

4 In the same tape --

5 (Tape played).

6 MR. JONAS: -- singing out Jihad with a child

7 pointing a gun. These children are very impressionable,

8 and this is what they are trying to do to them, to

9 brainwash them to become members of HAMAS.

10 (Tape played).

11 MR. JONAS: The cheers are for him saying HAMAS

12 is calling me.

13 (Tape played).

14 MR. JONAS: 1-325.

14:08 15 (Tape played).

16 MR. JONAS: Also on the tape.

17 (Tape played).

18 MR. JONAS: A ladder to glory out of our skulls

19 the children are singing. You see one child in the back

20 with a gun.

21 (Tape played).

22 MR. JONAS: 1997 -- 1995 to 1997 HAMAS was

23 designated a terrorist organization by the United States

24 Government. In 1995 forward, once it was designated, it

25 became illegal to provide money, support, to HAMAS. You

14:09 1 have heard a lot of talk about the designations. I just
2 want to briefly explain what that means. There is two
3 types of designations, specially designated terrorists or
4 specially designated global terrorists and foreign
5 terrorist organizations, SDFO's. SFDO's can only be
6 organizations that are foreign-based. The SDT designation
7 began in 1995 based upon a presidential executive order,
8 and the FTO designation was based upon a law passed by
9 Congress in 1997. HAMAS was a charter member of both.
10 HAMAS was one of the original members to be designated as
11 a specially designated terrorist and one of the first
12 groups to be designated as a foreign terrorist
13 organization. Look at 11-9 and 11-1 and will you'll see
14 those designations. The implication for being designated
14:10 15 on either list is the same. No U.S. person, citizen,
16 anybody living in the United States or organization can
17 give money to HAMAS. Simple as that. To do so is a
18 crime. And that's what these defendants are charged with.
19 They are charged with giving money to HAMAS.

20 Now, the defendants knew about these
21 designations, and they knew about the consequences.
22 Government's Exhibit 2-179 is a copy of that executive
23 order designating HAMAS as a specially designated
24 terrorist. That executive order was found in the office
25 of Ghassan Elashi, the defendant, over at Infocom. Ask

14:11 1 yourself this. How many people have a copy of a
2 presidential executive order lying around their office or
3 home, especially one of which they are accused of
4 violating.

5 Government's Exhibit 15-94 is a phone call
6 between the Defendant Mohammed El Mezain and another
7 individual where they talk about HAMAS being designated
8 and its assets frozen. We will see several phone calls
9 between the defendants where they talk about the
10 consequences -- the designation and the consequences. I
11 want to play 13-121, one such phone call between the
12 Defendants Ghassan Elashi and Shukri Abu Baker.

13 (Tape played).

14 MR. JONAS: They are talking about themselves
14:15 15 being identified as a HAMAS cell in North Texas.

16 Government's Exhibit 13-3.

17 (Tape played).

18 MR. JONAS: This is the Defendant Shukri Abu
19 Baker and Ghassan Elashi.

20 (Tape played).

21 MR. JONAS: Same conversation.

22 (Tape played).

23 MR. JONAS: The Defendant Shukri Abu Baker was
24 absolutely right. It doesn't matter whether it's a
25 charitable wing of the terrorist organization as long as

14:17 1 it's a part of the terrorist organization. It becomes
2 illegal to give money to that organization. You have
3 heard a lot of questions by Mr. Cline of some of the
4 government's witnesses regarding whether or not the social
5 wing of HAMAS, its Zakat Committees, was designated
6 itself, whether the Zakat Committees were designated, and
7 I guess the point he was trying to make is if those Zakat
8 Committees were designated or if those Zakat Committees
9 were part of HAMAS, they would have been designated, just
10 like you have some of the leaders of HAMAS designated
11 themselves. That's not the case. It doesn't have to be
12 each component and each individual of a terrorist
13 organization designated if those committees are part of
14 the organization which they are. Dr. Levitt told you
14:18 15 there are many reasons why every single person and every
16 single component of a terrorist organization is not
17 designated.

18 Let me put it this way. Let's say the Dallas
19 Cowboys are designated as a specially designated terrorist
20 organization and Jerry Jones and Wade Phillips are
21 designated themselves as well for their affiliation with
22 the Cowboys. Do you think that means that someone can
23 give money to the offensive line to go out and buy
24 equipment because the offensive line is not designated?
25 Of course, the offensive line is part of the team, and

14:19 1 they don't have to be separately designated in order for
2 it to be illegal to give to them, especially when these
3 defendants knew they were part of HAMAS. And the
4 defendants knew the law, and the defendants knew that they
5 were breaking that law. The indictment charges them with
6 providing money to a foreign terrorist organization.
7 There is a bunch of charges in that, both conspiracy,
8 which means they got together and agreed they were going
9 to provide money to HAMAS. That agreement doesn't have to
10 be in writing or spoken as long as it's understood, as
11 long as one person takes a step to further that agreement
12 such as sending one payment to HAMAS. That's good enough
13 to take that step to reach the goals of that conspiracy.

14 They are charged with specific counts of sending
14:20 15 money to HAMAS, both as a specially designated terrorist
16 and as a terrorist organization. The charge of money
17 laundering, of sending the money out of the United States
18 to HAMAS, that is a separate crime in and of itself. And
19 just to let you know, we put together a schedule,
20 Government's Exhibit 20-54, that lists out all the
21 transactions in the indictment. That's pulled from those
22 schedules of the payments to the Zakat Committees. It
23 also charges Shukri Abu Baker and Ghassan Elashi with tax
24 evasion. By sending money to HAMAS and reporting those
25 payments on the tax return of HLF as legitimate program

14:20 1 services, that was making those returns false, and that's
2 a violation in itself.

3 In their opening statement to you, Ms. Hollander
4 kept saying need not creed. But whose need did the HLF
5 fulfill? The HLF aided HAMAS's need by taking advantage
6 of the economic situation in the West Bank and Gaza and
7 the suffering of the children of both locations in order
8 to achieve the goal of HAMAS to destroy Israel through
9 violent Jihad. They said so in the Philadelphia
10 conference, Government's Exhibit 16-51. Quote, "The first
11 step should be taken by the brothers in how to make the
12 agreement fail, the national rights, the human rights,
13 stuff which will be exploited in order to make you look
14 legitimate while you call on the annulment of the
14:21 15 agreement," the agreement being the Oslo Accords. "The
16 human rights stuff which will be exploited in order to
17 make you look legitimate." That's exactly what the HLF
18 was doing. That's exactly what HAMAS was doing. Even the
19 Defendant Abdulrahman Odeh, sitting behind me, the New
20 Jersey rep, in discussing with the Defendant Mohamed
21 El-Mezain the HLF help during the Oklahoma City bombing,
22 Government's Exhibit 15-16, said "It is a good opportunity
23 for us to be highlighted from something good in America."
24 And Abdulrahman Odeh said, "Yes, if we can benefit in
25 America." They weren't there to help but to put on a face

14:22 1 for their own gain. They were trying to show one face to
2 America and conceal their true selves.

3 16-69, Page 13, bottom half. The Defendant
4 Shukri Abu Baker says "I swear by your God that war is
5 deception. War is deception. We're fighting our enemy
6 with a kind heart. We never thought of deceiving it. War
7 is deception. Deceive, camouflage, pretending you are
8 leaving when you are walking that way. You have to
9 deceive your enemy." And Omar Ahmad says "This is like
10 one who plays basketball. He makes a player believe that
11 he is doing this while he does something else. I agree
12 with you. Like they say, politics is a completion of
13 war." Page 21, again, "War is deception." Omar Ahmad
14 said "Learn from your masters in the Fund." The Holy Land
14:23 15 Fund, the Holy Land Foundation. "War is deception." We
16 have seen several times where they tried to deceive the
17 American public. We have seen Sheikh Yassin playing dumb
18 to Steve McGonigle, the reporter. We have seen the
19 Government's Exhibit 16-61, minutes of the meeting of the
20 Holy Land Foundation back in 1991 of just those three
21 defendants, minutes if the IRS came in and audited the
22 Holy Land Foundation they would be able to review. Those
23 minutes in English are fairly benign. But in Government's
24 Exhibit 3-19, taken from El Barasse, we see minutes in the
25 same meeting in Arabic which talk about the Palestine

14:24 1 Committee, which talks about the true purpose of HLF and
2 what they were really doing, and those minutes in 3-19 are
3 very different from the minutes in the meeting which is
4 3-32 which could be exposed to the public. We see Shukri
5 Abu Baker's statement to Gail Reeves about "We never
6 supported HAMAS or brought in HAMAS speakers." We know
7 that's not true. We see Shukri Abu Baker's ode to HAMAS,
8 poem to HAMAS in the Ila Filistine magazine plus his sworn
9 declaration filed in a lawsuit which is public for
10 everyone to see which says "I hate and abhor HAMAS." We
11 see deceit all over the Philadelphia conference, and I
12 encourage you to read the transcripts where they talk
13 about showing one face to America and another face to the
14 Muslim community that supports HAMAS and the Muslim
14:25 15 Brotherhood. War is deception. For over thirteen years
16 the defendants deceived the American public into believing
17 they were a legitimate charity with good intentions who
18 only wanted to help the poor and the needy, and in reality
19 they were part of a larger plan, in cahoots with a
20 terrorist organization, HAMAS, to try to destroy the State
21 of Israel through violent Jihad. Don't let the defendants
22 deceive you into believing what they did they did to
23 support widows and orphans. The reality is by supporting
24 HAMAS they were helping to create widows and orphans. Do
25 not let them deceive you. Find them guilty. Thank you.

14:26 1 THE COURT: Ladies and Gentlemen, as I told you
2 earlier, I am going to try to insofar as possible arrange
3 our recesses so that we don't interrupt the argument of
4 counsel. So even though this is a bit earlier than we
5 normally take our mid-afternoon recess, I think this would
6 be a good time to take it. We'll be in recess until 3:45.
7 I'm sorry. 2:45.

8 (Jury out)

9 THE COURT: Ms. Hollander, has it been worked
10 out among defense counsel what order you will be going in
11 and how much time will be allocated to each?

12 MS. HOLLANDER: I think so. Pretty much. I'm
13 going first, and I'm taking approximately an hour and a
14 half, although my cocounsel gave me some leeway, if
14:27 15 necessary, and next is Mr. Dratel.

16 MR. DRATEL: Yes, sir, an hour and a half at the
17 outside.

18 MS. HOLLANDER: And next is Ms. Cadeddu.

19 MS. CADEDDU: Forty-five minutes.

20 MS. HOLLANDER: Next is Mr. Westfall for
21 approximately forty-five minutes.

22 MR. WESTFALL: Approximately forty-five minutes,
23 yes.

24 MS. HOLLANDER: And last is Ms. Moreno for an
25 hour and a half.

14:27 1 THE COURT: Thank you. We'll hear from Ms.
2 Hollander then when we come back.

3 MR. DRATEL: Your Honor, may I ask also since
4 Ms. Hollander is going to finish around 4:15 or so if we
5 can recess and I could do mine in one piece tomorrow. I
6 don't think it would make any difference because we have
7 three tomorrow and two on Wednesday.

8 THE COURT: That sounds fine.

9 (Recess)

10 THE COURT: Ladies and Gentlemen, now that
11 counsel for the government has finished its opening
12 portion of the government's closing argument, we are at
13 the point where we will begin hearing from counsel for the
14 defendants. Of course, each of the defendants is
14:27 15 represented separately by counsel, and so as I told you
16 this morning, I have collectively allocated six hours for
17 the defense, and they apparently have agreed among
18 themselves as to how that time is to be divided. We will
19 begin by hearing from Ms. Hollander.

20 Ms. Hollander, would you like any warnings from
21 me about your time?

22 MS. HOLLANDER: No, thank you. I have a watch
23 with me, your Honor. Thank you very much.

24 THE COURT: Yes, ma'am.

25 MS. HOLLANDER: Good afternoon Ladies and

14:27 1 Gentlemen. This case is about charity. That's what I
2 said when we began in July, and it's still true. The
3 government charges Shukri Abu Baker with providing money
4 to charitable organizations that minister to the poor, the
5 desperately poor in Palestine and other places in the
6 world. That's what this case is about. Every witness
7 talked about the desperate need of the Palestinian people.
8 A real charity would do exactly what Holy Land did,
9 minister to the poor and the needy, keep perfect,
10 detailed, completely open records for anyone to see, file
11 all tax documents, insure that the recipients of its aid
12 are licensed, require the recipients of its aid to
13 document how the money was spent. Holy Land is a real
14 charity -- was a real charity that provided real aid to
14:27 15 desperately needy people around the world.

16 I want to stop there for a minute and look at
17 Defendant's Exhibit 1079, and I hope that you will take
18 notes of any of the exhibits that you are going to want
19 that we discussed. You are going to want to look at them
20 when you get back in the juryroom because, of course, you
21 will have hundreds of exhibits, and you might take note of
22 the ones you want to look at more closely.

23 This is a report, a report called a Food
24 Security Assessment. It's a joint project for the United
25 States Agency for International Development and other

14:27 1 international organizations. According to this survey,
2 Holy Land was one of four Islamic organizations providing
3 essential food for a 145,000 Palestinian families. Mr.
4 Edward Abington, if you recall -- and we'll talk about him
5 some more -- represented the United States in Jerusalem
6 for five years. He told you that meant approximately
7 twenty to twenty-five percent of Palestinian families in
8 need of food were being fed by these four organizations,
9 and Holy Land was one of them. So what happened when the
10 government closed Holy Land in 2001? According to this
11 document, this international document, what happened was
12 that the food supplies went down. Now, that doesn't mean
13 there was no fancy lettuce in the produce department.
14 That meant that people went hungry. That's the reality of
14:27 15 this case. And that's what Shukri tried so desperately to
16 avoid. He wanted these children who had nothing at all to
17 have a little food. He wanted these children to have
18 shoes to walk to school, a library to study in, supplies
19 they needed to learn. He wanted people to survive and
20 some day to thrive, and that's what Holy Land did. It
21 helped people to survive and to prepare for a better
22 tomorrow.

23 What this case is not about is the terrible acts
24 of HAMAS. Yet, Mr. Jonas spent the entire morning of his
25 closing -- two and a half hours -- talking about violence.

14:27 1 He's really trying to scare you, Ladies and Gentlemen, by
2 saying people were actually speaking in America. There is
3 no evidence of violence in America. And one thing is very
4 clear. Shukri Abu Baker is not charged with any violence
5 whatsoever. It's the same way actually the government
6 tried this case. They spent most of the six weeks they
7 put on evidence just trying to scare you with disturbing
8 videos of children, and you saw them again and again and
9 again and with photos and testimonies of bombings and
10 violence, none of which had anything to do with Shukri or
11 the Holy Land. The last video you saw was in 2004, and
12 Holy Land closed down in 2001. Don't be misled by that.
13 No one here disputes that HAMAS engages in acts of
14 terrorism, nor does anyone condone it. But no one here is
14:27 15 charged with engaging in acts of terrorism. This case is
16 about providing charity.

17 In addition to being how Shukri Abu Baker and
18 Holy Land responded to the needs of the Palestinian
19 people, this case is also about something else: It's
20 about how Shukri sought to make certain that Holy Land
21 would never, ever give a single dime to an organization or
22 charity that the United States Government told him not to.
23 It's also about how Shukri did everything he knew how to
24 do to follow the law so that the people who needed his
25 help could always count on him. He took steps -- and

14:27 1 we're going to talk about them -- to distance the
2 Foundation from politics to be sure that the orphans get
3 fifty dollars a month, none of which is contested, that
4 the children would get their food supplies and backpacks
5 and the mothers would get milk to feed their babies or a
6 refrigerator to store it if their houses had been
7 demolished, refrigerators and all.

8 To do this, Shukri actually hired a former
9 United States Congressman, John Bryant, to help Holy Land
10 comply with the law and satisfy the government that it was
11 doing so. John Bryant also wanted to find out why the
12 newspapers were printing stories saying that Holy Land was
13 linked to HAMAS, printing stories like the one we just
14 heard about that there were people in North Texas who were
14:27 15 terrorists. John Bryant told you that he thought this was
16 coming from Israel, and he tried to get someone in the
17 Israeli Embassy or in the United States Government to tell
18 him why, and no one would talk to him.

19 Let me add here something that I am going to
20 have to move pretty fast. I only have an hour and a half,
21 and the Government has six hours. So there will be some
22 subjects that other defense counsel will cover since we
23 have to divide the time. So if I miss something, it's
24 probably because someone else is going to cover it, but
25 please consider what the other defense counsel say for

14:27 1 Shukri also as though I had made those arguments.

2 For example, Ms. Moreno will be talking to you
3 more about the steps that Congressman Bryant took to find
4 out what Shukri and what Ghassan Elashi could do to avoid
5 breaking the law. As you have also learned, Shukri is a
6 religious Muslim man. His faith requires him to give
7 zakat. We have learned a lot about zakat. It's an Arabic
8 word that means to give alms, something of what you have
9 to someone less fortunate.

10 We have heard about the special place of orphans
11 in the Muslim religion. To a Muslim, a child is an orphan
12 if his father cannot provide for him -- if he is deceased
13 or gone or in prison. The Prophet Mohammad himself was an
14 orphan. So orphans have a special places in Islam. It's
14:27 15 a different definition than perhaps you and I have, but
16 it's a definition that's consistent with their faith.

17 The government has claimed here today that
18 Shukri really wanted to provide this much needed
19 charity -- And there is no contest that he provided the
20 charity, and Holy Land did -- but that he did it for the
21 purpose of supporting HAMAS and that he actually provided
22 material support to HAMAS. But they have never proven
23 that. The prosecution has failed to prove that Shukri
24 told anyone to support HAMAS through the distribution of
25 Holy Land's charity. They failed to prove that Shukri

14:27 1 intended to or conspired or attempted or did provide
2 material support to HAMAS. They failed to prove that
3 these Zakat Committees and charities that Holy Land gave
4 money to were operated on behalf of and controlled by
5 HAMAS. They failed to prove those things because those
6 things are not true.

7 What the government's own evidence shows is
8 Shukri's concern for the welfare of Palestinian people and
9 for other people facing hardships caused by war and
10 natural disasters. The government's own evidence shows
11 that Shukri's commitment to providing aid to his people
12 and his commitment to avoid politics to insure that aid
13 would continue.

14 Shukri is now an American citizen, but like many
14:27 15 of us he feels a kinship to his heritage, which happened
16 to be from his father's side Palestinian. With the start
17 of the first intifada in 1987, he saw the suffering of the
18 Palestinian people, his people. That's indeed where the
19 background of this case begins, although it's important to
20 remember that Shukri's on trial here only for acts after
21 1995, even though Mr. Jonas spent the entire morning
22 talking about events before then and this afternoon spent
23 a total of forty minutes of his three hours talking about
24 what he said was the relevant facts in the case about the
25 Zakat Committees.

14:27 1 Now, Mr. Jonas has told you you shouldn't
2 believe Shukri because he's been secretive and deceptive
3 in the past. I want to look a little more closely at
4 that. Shukri did give a deposition in 2003 as a
5 representative of Holy Land where Holy Land was being
6 sued, not Shukri. He explained the relationship between
7 IAP and HLF correctly as a business relationship. What
8 Mr. Jonas didn't tell you is that Shukri went into detail
9 about that, and I showed you -- and you may have forgotten
10 this -- checks for the fundraising that Holy Land did
11 through IAP. What he also didn't tell you is that Shukri
12 said in that deposition that he personally was on the
13 advisory board of IAP. He said that at that time. He
14 didn't hide it. But Mr. Jonas's omission points out the
14:27 15 real problem throughout this entire case. Mr. Jonas, once
16 again, didn't tell you the whole story. They don't want
17 you to look at the evidence, Ladies and Gentlemen. What
18 did he say? Don't worry about the actual names and
19 details. Just remember everyone we said was HAMAS was
20 HAMAS. Trust the government, trust the Government of
21 Israel, because what this really comes down to is what Avi
22 said. Miranda and Burns, they didn't know anything
23 really, except what the experts told them, which was Avi,
24 and Dr. Levitt got his information from the Israelis. So
25 that's really where it comes from. And the government

14:27 1 says just trust them. He says they are HAMAS, they are
2 HAMAS.

3 I want to ask you on Shukri's behalf not to do
4 as Mr. Jonas says. It's your duty -- it's your duty as
5 Americans citizens on this jury to carefully consider all
6 the evidence in this case, not just what the prosecution
7 showed you. For example, Mr. Jonas also talked about a
8 declaration that Shukri wrote, and he said that Shukri
9 lied in that one, too. But he didn't tell you about the
10 part that we had to ask the Court to add where Shukri said
11 that he's speaking from memory about events that occurred
12 twelve years earlier because at the time he gave his
13 declaration the government had taken all of Holy Land's
14 records, and he was just trying to accurately remember
14:27 15 everything he could.

16 But was Shukri afraid in 2002, 2003 of saying he
17 attended conferences where people sang songs about HAMAS
18 and in support of HAMAS in 1990 and 1991 before it was
19 designated, before the suicide bombings, when the
20 political situation was vastly different? Was he afraid
21 of saying that people sang about HAMAS at the same
22 conference where Holy Land raised money for the poor and
23 needy of Palestine or that he wrote about HAMAS in the
24 same news letters in which Holy Land advertised or even
25 that he said and wrote things in the early 90's and late

14:27 1 80's that would be considered in support of HAMAS? Of
2 course he was. Because by the time he gave that
3 deposition and wrote that declaration, Holy Land had been
4 closed and designated, and he had been threatened, hounded
5 by the press since 1993. His phones had been tapped, and
6 he was fearful. He was afraid of being prosecuted on the
7 basis of things he had said over ten years earlier.
8 Exactly what's happening in this courtroom.

9 The government wants you to consider the things
10 Shukri said in 1990, 1991 and 1992 and even consider the
11 things that other people said during that time as though
12 Shukri said them and as though he was saying them now.
13 The government wants you to believe that people never
14 change, that the world in 1991 is the same as the world in
14:27 15 1997 or 2001, as though HAMAS was the same, but that is
16 wrong. As you go through the evidence in this case, pay
17 close attention to the speakers and the dates. This is
18 particularly important because Mr. Jonas spent most of the
19 morning talking about what other people said and in a time
20 period different than this indictment. When you look at
21 the Philadelphia meeting -- and I am going to talk about
22 it in a minute -- pay attention to who's talking. Shukri
23 can never ever be prosecuted for expressing a political
24 viewpoint. That tramples the First Amendment that we all
25 care about into the dust.

14:27 1 And even if you do think he lied, if you think
2 he lied in that declaration or that deposition, he's not
3 on trial here for what he said but for providing material
4 support to HAMAS. That's what you have to focus on, and
5 that's what the government has not proven.

6 Mr. Jonas mentioned that Shukri traveled to
7 Saudi Arabia and claimed that he followed certain security
8 measures by saying that he worked for Infocom. He failed
9 to mention again that Shukri traveled under his own name,
10 used his own American passport, paid for the visa with a
11 check and wrote his correct home address on the
12 application. This isn't really consistent with traveling
13 undercover, but it is consistent with what the government
14 has done throughout the case which is to give you only a
14:27 15 few things and try to link them up without telling you all
16 the relevant facts.

17 As Judge Fish has told you, he's going to
18 instruct you at the end of this case, and one of the
19 instructions he would give you is this one. A defendant
20 is not on trial -- I'm sorry. This is the wrong one.
21 I'll just read it to you. "A defendant is not on trial
22 for any act, conduct or offense not alleged in the
23 indictment." Nothing in this indictment charges Shukri
24 with lying.

25 What the prosecution has done throughout this

14:27 1 case is so selectively stringing documents together. They
2 have done it while failing to show the relevant documents
3 that they have and they have had all along. But if they
4 are inconsistent with the false impression, you don't get
5 to hear about them, and I want to give you several
6 examples. One of them actually happened right here.
7 Right here during his closing argument Mr. Jonas showed
8 you 20-33, and he said it was a summary of transactions
9 between Marzook and Holy Land, to lead you to believe that
10 money was going back and forth between Holy Land and
11 Marzook. But Agent Burns admitted during her cross
12 examination that this summary was wrong. Those two
13 transactions I have highlighted in 1988, they actually
14 went to another organization called the Holy Land fund.
14:27 15 Let's look at that. We have the checks, and of course,
16 the government has the checks because these were in the
17 Holy Land documents. I'll show you one. Holy Land Fund.
18 The Holy Land Foundation didn't even exist in 1988. This
19 summary was wrong, and she had to admit it was wrong.
20 Yet Mr. Jonas is still today telling you
21 connections that don't exist, telling you facts that
22 simply aren't true. He also claimed that Mahmud Zahar was
23 deceitful in Holy Land's behalf in the 1999 interview with
24 Steve McGonigle. If you recall, Steve McGonigle, the
25 Dallas Morning News reporter, testified that he didn't

14:27 1 think Mr. Zahar was in any kind of cahoots with HLF. Now,
2 Mr. Jonas said Mr. Zahar said he only met Shukri once.
3 Well, that's very consistent. What Zahar told McGonigle
4 was that he met Shukri at a fundraising conference in
5 California, and that's exactly what Mr. Jonas pointed to,
6 a fundraising conference in California. And you will
7 notice that Mr. Zahar never spoke at that conference.

8 I only have time for a few more examples. So I
9 am going to have to ask you to rely on your memory for
10 others, but let me give you some. I want to start with
11 Shukri's trip to Palestine in 1991. The prosecution
12 showed you a handwritten, unsigned, undated document that
13 claimed to be a report about the Occupied Land Fund, that
14 Shukri is currently making a trip to Palestine to discuss
14:27 15 OLF's projects with people there. You kind of have to
16 watch these things, and I'm not blaming this on anyone,
17 but in their translations -- they are all typed up real
18 nice, but you got to look at the original document to see
19 what was it originally. For example, this one. It's just
20 a handwritten document. It was found at Mr. El Barasse's
21 house, not HLF. There is no evidence that Shukri ever
22 knew about this document. Then Agent Burns showed you
23 another one. She showed you a document found --
24 photographed in Mr. Ashqar's house. You remember they all
25 have this front on them that says camera roll. And this

14:27 1 one, too, handwritten, by whom we don't know, photographed
2 at Mr. Ashqar's house dated June 10th, 1991. It discusses
3 a visit to Palestine from May 17th, 1991 to June 4th, and
4 it specifically mentions HAMAS which is, of course, why
5 they wanted you to see it. So they wanted to suggest that
6 was about Shukri's report, and to bolster this false
7 suggestion, the prosecution then showed you a customs
8 form. They showed you this page, and they were hoping to
9 link this visit. You see where it has coming through
10 Charlotte Airport, and that was linked to these other
11 reports.

12 Now, here is what you have to keep in mind.
13 Agent Burns. Agent Burns is sitting here because she's
14 very interested in this case. It's the only case she has
14:27 15 had in the FBI. She's been combing through the HLF
16 records in the FBI for five years, since April of 2002.
17 She knows what's there. She has combed through the
18 subpoenas and bank records. So ask yourself why didn't
19 she show you what she had, the receipt that showed you
20 that Shukri was in England and not in Palestine in June of
21 1991.

22 There it is. Why didn't she show you that? Why
23 didn't she show you Shukri's actual report of his
24 Palestine visit one month later, July to August. That's
25 the report that was in the Holy Land records. That's the

14:27 1 report that we had to find and show you. That's the
2 report that in Arabic is all neatly typed up and has
3 Shukri's name at the bottom of it. And that's the report
4 that is consistent with the next trip coming back through
5 New York, and that's the report that's consistent with
6 staying at the Seven Arches Hotel in Jerusalem. She
7 didn't show you any of that. She knew about it. But that
8 report by Shukri talks about developing programs to
9 provide charity for needy Palestinians. That doesn't say
10 anything about HAMAS. So she and the prosecutors
11 conveniently ignored it because it didn't support the
12 theory that HAMAS was providing material support to
13 HAMAS -- that Holy Land was providing material support to
14 HAMAS. They hoped we wouldn't find it, and they hoped you
14:27 15 wouldn't see it. That's just one instance of providing
16 selected documents to leave a false and misleading
17 impression, and it was during the period of time that's
18 not even relevant to this indictment. Remember again,
19 Shukri is only charged with the events that took place
20 after HAMAS was designated as a terrorist organization,
21 January 23rd, 1995.

22 Now, let's talk about Philadelphia. Another
23 significant example of a misleading rendition of the facts
24 started with the translation that was wrong, that quoted
25 Shukri as saying something he never said. You remember we

14:27 1 made this demonstrative. Agent Burns told you the
2 government had lots of translators, and they worked very
3 hard to make sure that everything was correct, but even
4 though the FBI had a real time tape going in Philadelphia
5 in 1993, they were listening while it was happening. By
6 2007 in this courtroom they still had the Philadelphia
7 meeting wrong until we pointed it out to the translator
8 during the trial, and he had to change it. We had to
9 point out that Shukri didn't say "We give the Islamists a
10 hundred thousand, and we give others five thousand." What
11 he said was "In the past, we gave the Islamists a hundred
12 thousand, and we gave the others five thousand." And you
13 know that the government thought the original false
14 translation was important. Mr. Jacks said it in his
14:27 15 opening statement. It was even in the indictment, and
16 Burns testified about it and said it was a link to the
17 five thousand dollars she claimed was what they gave in
18 Oklahoma City after the bombing there in 1995. But once I
19 pointed out the translation was wrong, they never
20 mentioned it again. You never heard it again. The
21 correct translation, however, is consistent with the rest
22 of the Philadelphia conference in which Shukri talked the
23 need to work with people and caring for the Palestinian
24 people. We'll talk about that more. Agent Burns also
25 said that two years after the meeting in Philadelphia Holy

14:27 1 Land sent five thousand dollars to the victims of Oklahoma
2 City, and she drew this link. They said a hundred
3 thousand and five thousand, and look, they gave five
4 thousand dollars to Oklahoma, and she showed you
5 a five thousand dollar check to Oklahoma. But of course
6 what she didn't show you that she had all along was a
7 twenty-five hundred dollar check to the Red Cross for
8 Oklahoma, April 19th, 1995. That's the day of the tragic
9 bombing, and she didn't show you -- even though she knew
10 and had it -- that Holy Land was thanked by the Feed the
11 Children Program because they sent fifty volunteers to go
12 and help people after the bombing. And she didn't tell
13 you -- but she knew it -- that Holy Land paid for all of
14 those people to go to Oklahoma. So they didn't spend five
14:27 15 thousand dollars in Oklahoma. They spent over ten
16 thousand dollars to go to Oklahoma, but that wasn't
17 consistent with their theory. So they didn't tell you
18 about that. We had to find those.

19 Let me ask you who is it that's being deceptive
20 here? Do you really trust the government? The
21 translation was also wrong in another important respect.
22 In two places on that page, one it said that Shukri said
23 "Islamists" when he really said "Muslim." And in another
24 place, it said Ghassan Elashi said "Islamists," and he
25 really said "Muslim." We had to point that out to the

14:27 1 translator and get him to change that, too. Now, they did
2 talk about Islamists at the Philadelphia meeting. No
3 doubt about that. But doesn't the mistranslation show you
4 something about the government's bias? Especially when
5 the government's witnesses keep telling you over and over
6 again that "Islamists" is the same as HAMAS. HAMAS,
7 Islamists, Islamists, HAMAS, they say it's the same,
8 except that it's just not true. Mr. Abington and
9 Professor Brown both talked to you and Professor Brown is
10 studying Islamism, and Mr. Abington was the senior
11 representative of this government in Jerusalem and in
12 other countries in the Middle East for thirty years. He
13 knows a lot about Muslim countries. Mr. Abington defined
14 an Islamist as a pious Muslim, and Professor Brown as a
14:27 15 professor made a longer definition. He said an Islamist
16 is a person who's dedicated to increasing the role of
17 Islamic life in public or private life.

18 When you review the transcripts of the
19 Philadelphia meeting -- and I hope you will review them
20 carefully -- you will see the majority of the speakers,
21 including Shukri, are talking about Islamists in the sense
22 that Dr. Brown and Mr. Abington did as Muslims seeking to
23 increase the role of Islam in public life. That's the
24 goal of Palestinians, people adhering to the Muslim faith
25 will be permitted to -- not be permitted to live there and

14:27 1 practice their religion there and that it will be taken
2 over by the secular PA, and that's a concern to them. But
3 the government tries to convince you that all Islamists
4 are HAMAS. Let me ask you this. Would Laura Bush, the
5 President's wife -- do you think she would have met with a
6 member of HAMAS and put that on the White House web site?
7 Mr. Abington told you that this man who she met with is a
8 leading Islamist in Palestine. And she went there, and
9 she covered her head out of respect for where she was.
10 This is someone the U.S. contacts regularly. The U.S.
11 contacts Islamists because not all Islamists are HAMAS.

12 Mr. Dratel will be talking more about Islamists
13 and about how the government has also tried to merge the
14 Muslim Brotherhood into HAMAS. But we know they are not
14:27 15 the same because Mr. Abington and Professor Brown said the
16 Muslim Brotherhood still exists in Palestine independently
17 from HAMAS, and in fact, PA Chairman Yasser Arafat, who
18 was the political rival of HAMAS and the leader of a
19 secular, nonreligious party, was himself a member of the
20 Muslim Brotherhood. No government witnesses contradicted
21 any of this evidence.

22 And there are a few other points about
23 Philadelphia that are very important. This is a
24 conference of people trying to find a way forward. It was
25 a public place, a Marriott Hotel. They checked in using

14:27 1 their own names and credit cards. There was nothing about
2 the meeting that was secret. It was clearly a turning
3 point for HLF and Shukri, and that's something the
4 government really doesn't want you to notice. The Oslo
5 Accords had just been signed. No one knew what was going
6 to happen next. The prosecution made a big point to
7 Shukri's opposition to Oslo.

8 Perhaps we should divert and talk about Oslo a
9 little bit. But again the government presents selective
10 information. The government's premise was HAMAS opposed
11 Oslo. The men at the meeting opposed Oslo and Shukri
12 opposed Oslo, and therefore, he must be HAMAS. Well,
13 until we cross examined their witnesses and then
14 Dr. Levitt had to admit that there are many Palestinians,
14:27 15 including prominent Christian professors, who also oppose
16 HAMAS, not just HAMAS, not just terrorist organizations,
17 and we finally learned why they oppose Oslo. All Agent
18 Burns wanted you to know is HAMAS opposed Oslo because
19 HAMAS opposes Israel. Because HAMAS wants everything from
20 the Jordan River to the Sea. And they do, but they didn't
21 want you to know that Israel opposes Oslo because they
22 want everything from the Sea to the River. And they
23 didn't want you to know that other Palestinians opposed
24 the Oslo Accords because they thought too much was given
25 up. Remember Oslo carried out way to the end did not

14:27 1 permit for a Palestinian state. These people want a
2 homeland. They wanted a homeland, and they didn't get it.
3 All they got in Oslo -- All they got were the little bits
4 on this map that are in dark. The little bits -- Jenin,
5 Tulkarem, Nablus, the little tiny bits that are called
6 Area A. That's all they got. So it's understandable that
7 they would be disappointed.

8 Benjamin Netanyahu, an Israeli who ran for prime
9 minister and actually won, campaigned on a promise to get
10 rid of Oslo. It had to be changed later, but that was his
11 campaign compromise, and the settlers in the West Bank
12 didn't like Oslo because they were afraid that Israel
13 would give up the West Bank. Clearly opposition to Oslo
14 does not make someone HAMAS. Lots of people opposed
14:27 15 HAMAS, and support in the United States -- Although Mr.
16 Jonas said there was support in the United States. Well,
17 there may have been some, but there was a lot that wasn't.
18 Edward Zeid was in the United States, and he didn't
19 support Oslo, and he was a Christian professor at Colombia
20 University. These are selective facts that create a false
21 impression. They only want you to connect the feelings at
22 Philadelphia to HAMAS. They don't want you to understand
23 the reason for those feelings or why Palestinians felt the
24 way they did. Once again, right here today Mr. Jonas
25 again made some selective facts. I want you to look, and

14:27 1 perhaps you will have to look back in the room, but I will
2 show you quickly 16-67.

3 This is one part of the Philadelphia meeting,
4 and I can put it on the Elmo here so that you can see it.
5 But let me just tell you why it's significant. It's
6 significant because an unknown person says -- You remember
7 Mr. Jonas said they were talking about how they had a new
8 organization. He says "In my opinion, we must form an
9 organization for activism which will be neutral before we
10 are placed in a corner." That's what he read. But he
11 didn't read "This suggestion ought to be discussed. Of
12 course, I do have some radical ideas. So that we have the
13 opportunity to discuss them. Some of our approach to the
14 policies in the area, nonopposition to peace is a
14:27 15 statement. I mean, someone will ask you, tell him no. We
16 are not opposed to peace for peace, but we are opposed to
17 hypocrisy because this peace is not justice, that there is
18 no justice without peace. No peace without justice. It
19 is always a principal of peace with justice."

20 It's exactly on the same page where Mr. Jonas
21 read to you, but he only read you a little part of it, not
22 the rest of what this person said, and this wasn't even
23 Shukri, but it's someone saying I threw out an idea here.
24 This was a political meeting. And what did Shukri say?
25 "There is all of this talk about SAMAH. My brother say

14:27 1 what you want to say. The door to politics is big. Did
2 God tell you you must stand in front of the university and
3 tell them we have to claim the 1948 land? It is just
4 talk. This is an impossible address, my Brothers. It is
5 not our goal to demand the '48 land. Even if we demanded,
6 no one would return it to us." And he goes on, and what
7 does he say after that? "SAMAH is classified as a
8 terrorist by Constitution, by law. If I wanted to adopt
9 its work, they would kick me out, take my citizenship.
10 They tell me go away." He knows what the law is, and he's
11 trying to follow the law. That's what this was about.

12 There is another extremely important point, and maybe
13 it's the point that's brought up there, and that's the
14 First Amendment to the Constitution. Mr. Jonas said that
14:27 15 no one can be convicted on the basis of what they say, but
16 then he spent most of his time talking to you about what
17 people say. This is what the Court will instruct you.
18 The Amendment guarantees all persons in the United States
19 the right to freedom of speech, freedom of religion,
20 freedom of associations. Because of these Constitutional
21 guarantees, no one can be convicted of a crime simply on
22 the basis of his beliefs, his expression of those beliefs
23 or his associations. Please remember that when you think
24 about the meeting in Philadelphia. This involved
25 Palestinian-Americans expressing opposition to a political

14:27 1 agreement they thought was unfair and trying to figure out
2 how to move forward, and that's protected by the First
3 Amendment. It's true that Shukri said "War is deception."
4 He's not the first person to say that. It's come down to
5 us through history. He's not the first person to say that
6 politics is deception. You probably could find that in
7 most newspapers every day. And he says, "This is
8 political talk. Political talk. You have to separate
9 from those actions."

10 Additionally, one other instruction that's very
11 important about Philadelphia. The mere fact that certain
12 persons may have associated with each other and may have
13 assembled together and discussed common aims and interests
14 does not necessarily establish proof of the existence of a
14:27 15 conspiracy. Please keep that in mind also when you think
16 about the Philadelphia meeting. That happened, of course,
17 two years before HAMAS was designated as a terrorist
18 organization. Shukri made it very clear that Holy Land
19 could not get caught up in the politics of the coming
20 time, and if you look at 16-57 which is another part of
21 the Philadelphia meeting, you will hear him say and read
22 that he says that "I believe as a charity organization I
23 should not give an opinion or a political judgment as all.
24 I have no relationship with that. I'm not a political
25 institution. I'm dealing now with a new reality. It is

14:27 1 not my job to attack the self-rule. Amicable relationship
2 must be maintained with all parties. This goes without
3 saying, my Brothers. We must not put any factual or
4 partisan influence on the Foundation in America, and it
5 cannot be the charitable arm of this or that. This is
6 wrong. It can't cater to the interest of a specific
7 party."

8 That's what he said, and that's what he did. He
9 led Holy Land away from the politics that he worried would
10 harm its ability to provide the food and school supplies
11 and stoves and refrigerators to desperate people living
12 under a harsh occupation, to refugees who have been in
13 refugee camps for fifty years. You have heard about the
14 harshness of this occupation and the government said well
14:27 15 we just told you about Israel to distract you. Ladies and
16 Gentlemen, we told you about Israel because that's the
17 context that these people were living in and why they had
18 to provide this charity. That was not a distraction. Not
19 one witness, not one government witness, denied that the
20 Palestinian people continued to live in dire poverty
21 because Israel has not provided for them as it is supposed
22 to provide for people it occupies.

23 One month after the meeting in Philadelphia,
24 there is a very important conversation that you have and
25 it's at 16-57, the conversation where Mr. Ashqar, who you

14:27 1 have heard about, says "The problem is with the Fund," and
2 he's talking about Holy Land. "They act on their own.
3 They appoint and discharge by themselves and no one else."
4 That's exactly what Shukri did. That's what he wanted.
5 He took Holy Land out of politics. He said "We're an
6 American charity. We're going to act in accordance with
7 American law, and we're not going to break the law and
8 we're not going to break the law because we want to
9 provide this charity." And no one denies that they
10 provided the charity. He did use the word "SAMAH." If
11 you go through the Philadelphia meeting you will probably
12 find they used HAMAS about the same number of times they
13 used SAMAH. But there is another thing to remember.
14 Shukri was born in Brazil which in those days was a
14:27 15 military dictatorship, and he lived in Kuwait, not exactly
16 a speech friendly place, and they were afraid of Israel.
17 The intifada had been going on for five years by that
18 time. Holy Land was working in the West Bank and Gaza,
19 and you heard Mr. Abington say the Israelis would lock
20 people up for flying a Palestinian flag. Ten thousand
21 people are in jail, according to Mr. Abington, in
22 administrative detention in Israel having never been
23 charged with a crime. They were afraid of Israel. They
24 were afraid. And yet it appears that we have become like
25 those countries because now these words have come back to

14:27 1 haunt them, words they had a right to say, political
2 expression that they had a right to give. Also, after
3 HAMAS was designated a terrorist organization in 1995,
4 there are another two calls that the government produced
5 for you where Shukri used SAMAH, and in neither of them
6 did he express any support for it. In the 1999 telephone
7 call, the government introduced between Shukri and
8 Abdulraham Odeh, Shukri told Odeh not to take money from
9 someone named Deeb Anees because he raised money for
10 SAMAH. Mr. Westfall will talk about this in more detail,
11 but I want to point out that again the government tried to
12 produce a false impression. They introduced documents
13 through Miranda that show that Deeb Anees raised money for
14 Holy Land after the designation. There was a list of
14:27 15 names. And Agent Miranda said you see, He raised another
16 seventy thousand dollars after that phone call where
17 Shukri said don't take any of his money. But it wasn't
18 true, and on cross Mr. Westfall and Mr. Dratel pointed out
19 the list most likely reflected that he raised money for
20 Holy Land only in 1996 and 1997 before that call. The
21 payments were simply payments that came in after he
22 called, things that were originally pledged during the
23 fundraising event before that phone call. They introduced
24 another version of the same document that made that clear,
25 which Miranda said he had that call but they hadn't

14:27 1 offered that in evidence.

2 There is another example, and Mr. Jonas brought
3 it up briefly today. You remember that Avi said that Mr.
4 Abu Aker was a money changer and then Agent Burns showed
5 you some testimony, a summary she created. This summary.
6 And they got so far as to tell you this money goes to this
7 money changer, and gee, we can't address the funds once it
8 gets there. That was not only selective but not truth,
9 and the documents proving it was not truth have been in
10 the FBI office for the last five years. So Agent Burns
11 and these prosecutors knew that she could complete that
12 summary all the way to the food for Palestinians, but they
13 chose not to and left it to us to try to find the
14 documents if we could, and fortunately we could. I know
14:27 15 it was painstakingly tedious for you when I went through
16 all the documents showing where all the money matched up,
17 and I apologize for how tedious that was, but I needed to
18 show you the information the prosecution had all along
19 that Mr. Abu Aker was actually a vendor from whom Holy
20 Land in Gaza bought food for Ramadan so that people who
21 had no food would have something to break the fast during
22 the Ramadan holiday, a holiday the Muslims are supporting
23 this month, as we speak now. She could have showed the
24 bid that Mr. Abu Aker provided Holy Land. She said she
25 knew about those transfers. She didn't say she didn't.

14:27 1 Instead, she found a few select facts and presented them
2 to you. And we had to present to you the bid. This was
3 it in the Arabic. The report from the Holy Land Gaza
4 Office. This was it in English, and in fact, the Holy
5 Land files have a picture of that very project from 1999
6 to 2000. That's a photo that they had in their possession
7 for five years. They knew and Agent Burns had to admit
8 after we introduced these documents that the payments to
9 Abu Aker were consistent with the Ramadan food project and
10 that she was aware of that project.

11 Now, Mr. Abu Aker, there was also a check to him
12 for \$6,220. She didn't bother to address that one either.
13 She just put it on her summary. But that one went
14 directly to the Customs Office in Israel. There is the
14:27 15 document. What was it for? Seven hundred twenty wheel
16 chairs. Wheelchairs. These wheelchairs. That money
17 didn't disappear. Wheelchairs, all with the Holy Land
18 logo on them. Wheelchairs.

19 And she identified this woman, Dalell Mohammed.
20 This is the face of Holy Land Foundation, putting a child
21 in a wheelchair. An uncovered woman in the West Bank
22 putting a child in a wheelchair. The Holy Land manager in
23 Gaza who distributed this food, Mohammed Abu Muharam, and
24 this man was identified as the Minister of Health for the
25 PA. They didn't want you to see that. They didn't want

14:27 1 you to see the work that Holy Land did. We had to find
2 those documents for you. There was a second money
3 changer -- they are really money exchangers -- Mr.
4 Herzallah, and he owned a money-changing business, and in
5 that part of the world people have to change money from
6 dollars to shekels, and the government admitted that
7 people had to change money and admitted that the Holy Land
8 Office in Gaza could only get money in dollars and
9 admitted reluctantly because it didn't help their case
10 that they had seen records of orphans receiving the money
11 in shekels. And when we walked through those financial
12 documents, Agent Burns had to admit that the money trail
13 from Texas to Gaza to Mr. Herzallah changed to shekels for
14 the orphans was consistent with the documents. What
14:27 15 reason is there to not show you these documents except to
16 create a false impression and distract you from the fact
17 that Holy Land provided food and charity and to lead you
18 to believe that the money somehow disappeared.

19 They also showed you a wire transfer to a Kamal
20 Al Tamimi. In fact, they showed it to you twice. And
21 they showed it to you so that Mr. Avi could say, oh, yeah,
22 in my opinion he's HAMAS. See what it says: "For the
23 families of Demolished Homes Projects." But they didn't
24 show you anything about the demolished homes. In fact,
25 you remember I asked Agent Burns, why does Israel demolish

14:27 1 homes? She said, "Well, they demolish the homes of
2 terrorists. That's all I know." That's all she ever
3 learned. It's convenient that she hasn't learned anything
4 about the history of Israel or the conditions of
5 Palestine.

6 The former Consul General, Mr. Abington, knew
7 about the demolishing of homes. He represented the
8 government. He's retired, but he represented the
9 government for thirty years. He doesn't have a dog in
10 this fight. He came from Europe to testify without any
11 fees because he wanted to make sure you got the full
12 picture. He told you that only a small fraction of the
13 houses that Israel demolishes are because they belong to
14 terrorists. Most of them are because people don't have
14:27 15 proper permits, but Israel won't give them proper permits,
16 and people that have homes for generations are demolished,
17 and sometimes they are on bypass roads that Israel wants
18 to build to settlements. So they are just demolished. He
19 even talked about where this sixteen thousand dollars
20 went, that in Rafah which is at the border with Egypt that
21 Israel decided it wanted to have a security corridor. So
22 it went in and mowed down the houses. Nobody was
23 compensated. Just left people destitute. The point is
24 they only provided selective bits of information to give a
25 false impression that only terrorists would have homes

14:27 1 demolished. They didn't want you to see the people whose
2 houses and furniture and mementos and family photos were
3 just turned into dust. All of these attempts by the
4 government to present false evidence, misleading facts,
5 incomplete situations should leave you with doubt about
6 what happened, and any doubt you have a reason for is a
7 reasonable doubt. We're going to talk more about that.

8 But first I want to show you some of these
9 pictures. Just a few. You have these if you look at the
10 Power Point presentation. It's Defendant's Exhibit 1202.
11 You will see all the pictures. Let me show you a few.
12 This is a family living in a tent receiving food from Holy
13 Land. This is the Holy Land delivering blankets, bedding.
14 This is where people live. Who do you think lives here,
14:27 15 has their laundry out here, an open sewer? This is where
16 Holy Land was working. This is the reality of Gaza. And
17 here is a family receiving just the things to survive,
18 nothing more, just to survive. All of these selective
19 facts, all of these things the government didn't want you
20 to know. Think about that when you think about this
21 instruction that the Judge will give you. "Reasonable
22 doubt is a doubt based upon reason and common sense after
23 careful and impartial consideration of all the evidence in
24 the case. Proof beyond a reasonable doubt, therefore, is
25 proof of such a convincing character that you would be

14:27 1 willing to rely on it and act upon it in the most
2 important of your affairs."

3 Based upon the evidence that the government has
4 put on, would you be willing to rely on it? Would you be
5 willing to rely on that kind of evidence to have surgery
6 or buy a house? I don't think so. Because if you
7 hesitate at all, then you have a reasonable doubt, and
8 Judge Fish will also instruct you that unless you are
9 satisfied beyond a reasonable doubt that Shukri is guilty,
10 the presumption of innocence alone is sufficient to find
11 him not guilty. That's the presumption of innocence he
12 came with, and he still has.

13 We have more examples of misleading testimony.
14 I'm kind of watching my time here. Several government
14:27 15 witnesses discussed a man named Jamil Hammimi. They
16 agreed he was one of the founders of HAMAS on the West
17 Bank. Then things diverged. Levitt and Avi testified
18 that he left HAMAS in 1996, but then Agent Miranda tried
19 to get him designated as a terrorist in 2002 for the very
20 purpose of assisting in this prosecution, and it appears
21 the prosecution didn't include Avi in on the testimony
22 because he said that Jamil Hammimi never left HAMAS.
23 Today, Mr. Jonas said he left and then he came back, but
24 there was no evidence of that. And none of them told you
25 that the United States Government brought Mr. Hammimi

14:27 1 here, Sheikh Hammimi, in 1999 as a distinguished
2 gentlemen. Do you remember this? It was early in the
3 case. I'll just show you one document. The United States
4 Information Service, that's Defendant's Exhibit 87, and
5 you can see the ones behind it. We had to tell you that.
6 We had to tell you that the United States State Department
7 brought him here, and he toured all around the country as
8 a distinguished gentlemen, and after I finally got this
9 introduced, Agent Burns admitted, well, she had known
10 about it for two years. They didn't tell you that. Who's
11 being deceptive here? Who can you trust? There are a lot
12 more examples, and I have to leave them to your memories
13 because I need to turn to another subject.

14 You have heard a lot of evidence about the
14:27 15 United States Treasury's list of specially designated
16 terrorists, and Mr. Jonas talked about specially
17 designated terrorists. Two versions of that list are now
18 in evidence, the list as it existed June 29, 2001 which is
19 about two weeks after the last transaction charged in the
20 indictment. That's this one, Defendant's Exhibit 963.
21 And then there is the current list. That's even bigger,
22 Defendant's Exhibit 1111. You have heard from several
23 witnesses. To this day, the United States Government has
24 never designated a single one of the Zakat Committees or
25 charitable societies as a terrorist organization. So why

14:27 1 are these lists such crucial pieces of evidence? Because
2 they are how the United States tells its citizens and the
3 world who it considers to support terrorism. That's how
4 the United States Government tells businesses and
5 charities and everyone else who you can no longer deal
6 with. You remember during the cross examination of Avi
7 during, the cross examination of Miranda, the United
8 States Treasury Department -- you remember hearing that
9 the United States Treasury Department recently designated
10 a charitable organization in Gaza call Al Saleh, and at
11 the same time they designated its director, a man named
12 Ahmed Al Kurd, and there is a press release. This is the
13 press release, and it's very tiny writing. You can look
14 at it. It's Defendant's Exhibit 1052, and it says "Today
14:27 15 the U.S. Treasury Department designated the Al Saleh
16 Society. HAMAS has used Al Saleh Society, as it has other
17 charities, to finance its terrorist agenda. Today's
18 action alerts the world to the true nature of Al Saleh and
19 cuts it off from the U.S. financial system." That's what
20 the Treasury Department does when it doesn't want you to
21 work with something anymore. Think about it. OFAC, the
22 Office of Foreign Assets Control, that's the office in the
23 Treasury that does those things, alerts the world and
24 tells them someone is a terrorist. That's how the
25 government can cut off the finances from it.

14:27 1 So back to what I said a minute ago, not a
2 single one of the Zakat Committees and charitable
3 societies named in this indictment has ever been
4 designated a terrorist organization. In fact, none of the
5 ones discussed in this case with the exception of Al
6 Saleh, which was designated last month, has ever been put
7 on that list. That means the Treasury Department never
8 told the world that it considered these Zakat Committees
9 and charitable societies to be part of HAMAS, and you'll
10 have these lists, and you can look at them. All the
11 government had to do was to cut them off -- to tell Holy
12 Land they couldn't do business with them -- was to put
13 them on the list, but it never did, even though it
14 designated Al Saleh, InterPal in England, CVSP, Sanabil,
14:27 15 Al-Aqsa and even HLF, and the government can't say, Well,
16 we didn't know, We didn't know that HLF was giving to
17 these charities, because they knew back in 1993. Remember
18 they were listening to the Philadelphia conference, and
19 Mr. Jonas just reminded you that they talked about the
20 Zakat Committees. They mentioned the Tulkarem Zakat
21 Committee was going to get a hospital in 1993. So they
22 knew about it then. And that's just the beginning. The
23 FBI had wire taps on HLF's phones 24/7. They had wire
24 taps on Shukri's home phone. They had wire taps on
25 El-Mezain's home phone. They even bugged the Holy Land

14:27 1 office so that they could hear people chatter inside. So
2 they were able also -- Because the phones were tapped they
3 could read the faxes because the faxes come through the
4 phone line. I have never understood quite how but somehow
5 the papers go through and come out on the other end. And
6 they come out at the FBI office, and they could read this
7 and the e-mail. Among the calls were calls from Haitham
8 Maghawri requesting transfer of monies to the Zakat
9 Committees, and some of the requests were faxes, and they
10 went to the very same Zakat Committees we talked about.
11 So they knew where the money was going and knew it all
12 along, and that was ten years before these people were
13 charged in this case.

14 There is a good reason they never put them on
14:27 15 the list, and that's because they are not part of HAMAS
16 and not controlled by HAMAS. So how do we know that?
17 Think back to the testimony of Edward Abington. He was
18 the United States Consul General in Jerusalem from 1993 to
19 1997. He received briefings from the CIA every morning.
20 The CIA is our spy agency. That's what they do. They spy
21 for us, and they collect intelligence, and he had access
22 through the CIA to all the intelligence the United States
23 collects. And he also had access to what we call open
24 source information -- newspapers, internet, television,
25 which we can all look at, but the CIA studies, too, and he

14:27 1 had access to what the Israeli intelligence told the CIA
2 which means whatever information Avi and his government
3 had, but that's not all. He dealt regularly with the
4 Palestinian Authority -- that was his job -- with Chairman
5 Yasser Arafat, and he speaks Arabic, unlike Dr. Levitt.
6 So Mr. Abington traveled around the West Bank and Gaza and
7 talked to Palestinians, and that was part of his job.
8 America wants to know what's going in the country where it
9 sends its representatives. He visited the Zakat
10 Committees. He visited Hebron, Bethlehem, Ramallah,
11 Nablus, Tulkarem, Qalqilla, Gaza, and the hospital in
12 Jenin. With all of those resources available to him, no
13 one told him that the Zakat Committees and charitable
14 societies that we're talking about here were part of
14:27 15 HAMAS. It was important for him to know because he was
16 forbidden from dealing with HAMAS because America and the
17 State Department said you can't deal with HAMAS. So you
18 need to know. After he left the State Department, he
19 worked for the Palestinian Authority which opposes HAMAS
20 and opposed it when it was controlled by FATAH, and it was
21 FATAH he worked for, and those officials had every reason
22 and incentive to tell him anything bad about HAMAS because
23 they were fighting with HAMAS. But no one ever told him
24 that the Zakat Committees and charitable societies that
25 Holy Land worked with were controlled by HAMAS. Nobody.

14:27 1 Ever.

2 You heard from Dr. Brown last week. You heard
3 from him that the Palestinian Authority just last week
4 which is now FATAH again on the West Bank closed a hundred
5 three charities in the West Bank. Not one of the
6 charities that they closed was one of the ones on this
7 list. Mr. Abington was about as credible a witness as you
8 will ever get. He was a senior representative of the
9 United States Government, but unlike these prosecutors and
10 these FBI agents, he has no dog in this fight. He hates
11 HAMAS. He has no reason to favor of the defense. He
12 wasn't even getting paid. He didn't have to come here and
13 represent these Muslim men on trial for terrorism, but he
14 came here, and he came here to tell you that he didn't
14:27 15 consider the Zakat Committees to be part of HAMAS or
16 controlled by HAMAS because he wanted to make sure you got
17 the whole true story. Unlike Levitt and Burns and Miranda
18 and Avi, Ed Abington has actually spoken to many
19 Palestinians, and he has never heard anyone give HAMAS
20 credit for the services they received from the Zakat
21 Committees. The government didn't even challenge his
22 testimony because it could not.

23 Keep in mind also that Levitt has visited one
24 Zakat Committee but not one in this indictment. Burns,
25 Miranda and Avi have never set foot inside a single Zakat

14:27 1 Committee. Not one of them told you that they had spoken
2 to a single Palestinian about the reputation of these
3 committees or charities. But Mr. Abington wasn't the only
4 one in the United States Government who doesn't consider
5 Zakat Committees to be part of HAMAS.

6 Remember the documents from the U.S. Agency for
7 International Development. That agency, USAID, actually
8 give material support to Al Razi Hospital which the Jenin
9 Zakat Committee ran, and did so ten years after Avi claims
10 it was already HAMAS. And they have a press release.
11 They were proud of it. August 26, 2002. USAID provided
12 supplies to Al Razi Hospital, the United States
13 Government, 2002, and they also -- And you have these
14 documents. Defendant's Exhibits 1010 and 1076. They
14:27 15 actually vetted these committees, cleared them, checked
16 them, said it's okay to work with Tulkarem and Qalqilla,
17 and in fact, charities worked with USAID including CAIR,
18 C-A-I-R, sent money to the Nablus Zakat Committee. The
19 government has never contradicted that evidence because
20 they can't.

21 And think about Dr. Brown, who's a professor for
22 George Washington University. He has devoted his entire
23 professional life to studying Palestinian civil society
24 and Islam. He visited to two Zakat Committees. Talked to
25 their directors, talked to Palestinian scholars. And he,

14:27 1 too, speaks and reads and writes Arabic, and he, like Mr.
2 Abington, doesn't have an axe to grind. No dog in this
3 fight. He didn't allow us to pay him because he wanted to
4 make sure he was impartial. He put his reputation on the
5 line to come in and testify on behalf of these men who
6 were charged with terrorism. But he told you clearly the
7 Zakat Committees and charitable societies are not part of
8 HAMAS, are not controlled by HAMAS, and no Palestinian he
9 talked to ever told him otherwise. He even discussed the
10 conversation he had with the Director of the Ramallah
11 Zakat Committee, and you remember he said the guy had a
12 moustache and no beard and he had never seen anyone in
13 HAMAS look like that, and the director told Professor
14 Brown, "Whatever politics you have outside this committee,
14:27 15 you leave at the door." The government didn't challenge
16 that evidence either because it can't. So it's no
17 surprise that the Zakat Committees and the charitable
18 societies in the indictment aren't on the specially
19 designated terrorist list. They are not there because
20 they are not part of HAMAS, not controlled by HAMAS and
21 they don't act on behalf of HAMAS.

22 So how does the government explain why they are
23 not on the list? Well, you heard Dr. Levitt give some
24 reasons, and you heard Mr. Jonas talk about it. But none
25 of them make sense. The first reason Dr. Levitt gave you:

14:27 1 There is not enough time in the day to designate as a
2 terrorist everyone that needs to be designated. Take a
3 look at Defendant's Exhibit 1111. This is the current
4 list. It contains thousands of names. It's little tiny
5 print. I'll just put one page up here. Look at all of
6 those names on one page. When you can go through -- And
7 you'll have it at your leisure to look at. Don't you
8 think if these Zakat Committees were controlled by HAMAS
9 or controlled by the HAMAS wing, as the government claims,
10 that they could have found time to designate at least one
11 of them? There is another problem with Dr. Levitt's
12 not-enough-time-in-the-day argument. Why couldn't the
13 State Department at least have told John Bryant, the
14 former congressman that represented Holy Land, that it
14:27 15 considered the Zakat Committees to be part of HAMAS. It
16 might not have been as official as a formal designation,
17 but it would have had the same affect.

18 You heard the phone call, and you will have it
19 with you where Shukri said he wanted to see the list.
20 This is 13-83. It was right when the list came out in
21 1997. He said "I need to see the list so I know who we
22 can't give money to." That call is very important, and I
23 hope you will look at it when you get back in the
24 juryroom. It's dated April 23rd, 1996. So the FBI knew
25 about that call in 1996 because, of course, they taped it.

14:27 1 Shukri was talking to Ghassan Elashi, and he said "You
2 have to abide by the law." Why did they have this? Why
3 did they know about it? Because they were worried about
4 it. They wanted to make sure. They knew about what was
5 going on in Israel and Palestinian and they wanted to make
6 sure that they stayed on the right side of the law.

7 Judge Fish will also instruct you another very
8 important instruction. Keep in mind when you are thinking
9 about this, and that's the definition of the word
10 "willfully." The government has to convince you beyond a
11 reasonable doubt that Shukri acted willfully. "Willfully
12 means to act voluntarily and purposefully with a specific
13 intent to do something the law forbids with a bad purpose
14 to disobey or disregard the law."

14:27 15 When you go back to the juryroom and try to
16 figure out whether the government has proven beyond a
17 reasonable doubt that Shukri acted willfully, read the
18 transcript of this telephone call, 13-83, because it shows
19 Shukri had no intention to disregard the law. He wanted
20 and intended to obey it. That's why they hired a former
21 congressman to go to the government and say just tell us
22 what to do, tell us what to do differently. We hear these
23 reports in the press. What is it? Was it Israel? We
24 don't know. Mr. Abington got in trouble for saying that
25 Israel was building settlements that they didn't need

14:27 1 because he thought they were trying to just take over
2 ideologically the West Bank. He didn't get in trouble
3 because it wasn't true. He got in trouble because it
4 interfered with the U.S. relationship with Israel for
5 people to know that.

6 Shukri was waiting to see this list so that he
7 would know which organizations he could and which
8 organizations he could not transfer money to so that he
9 could continue to assist the people of Palestinian. And
10 since the FBI was tapping his calls if the U.S. Government
11 wanted to stop Holy Land, all it had to do was put the
12 Zakat Committees on the list, but it never did that. It
13 never told Congressman Bryant or Shukri to stop working.
14 Dr. Levitt had a second explanation for why the Zakat
14:27 15 Committees aren't on the list, but that's as weak as the
16 first. He says sometimes the government doesn't designate
17 a person to avoid interfering with an investigation. What
18 that means is the government, at least the FBI, sometimes
19 tries to manipulate the designation process to help
20 prosecute someone, and in fact, Agent Miranda attempted to
21 do just that in this case. He admitted that in March of
22 2002, he asked his fellow agent in Washington, D.C., to
23 try to get Khalil Mishal, Jamil Hammimi and some other
24 people designated as terrorists to assist in this pending
25 investigation. The Treasury Department did designate Mr.

14:27 1 Mishal, and in the trial in this case, the government used
2 that because every time they refer to Khalil Mishal, they
3 didn't say Khalil Mishal; they said Specially Designated
4 Terrorist Khalil Mishal over and over. So we know the FBI
5 tries to manipulate the terrorist designation process to
6 help prosecute people, but does that explain why the
7 committees aren't on the list? It really doesn't. It
8 might explain why they left them off the list before they
9 closed Holy Land. Although that seems unfair, the FBI may
10 have wanted to lull Holy Land into doing business so that
11 it could prosecute its officers later as it's doing now,
12 but that doesn't explain why it didn't put the Zakat
13 Committees on the list after they closed Holy Land.
14 Remember, Holy Land was closed in 2001. It's now 2007.
14:27 15 Imagine how much stronger the government's case would be
16 if they could refer to the Ramallah Zakat Committee as
17 Specially Designated Terrorist Ramallah Zakat Committee.
18 Don't you think if it really thought the Ramallah Zakat
19 Committee was HAMAS that it would want to notify other
20 American charities not to deal with it? But it hasn't
21 done that.

22 Dr. Levitt's third reason was another one that
23 Mr. Jonas raised. He said well there is no need to
24 designate them separately because they are already
25 included in the designation of HAMAS. That argument has

14:27 1 two big holes. The first one is the Treasury Department
2 has designated a whole bunch of organizations that Mr. Avi
3 claims are part of HAMAS -- INTERPAL, CVSP, Sanabil,
4 Al-Aqsa and Holy Land Foundation. And now it just
5 designated Al Saleh, even though it says they are all
6 controlled by HAMAS. So if they are all part of HAMAS, as
7 he told you they were, there is no need for the Treasury
8 Department to designate them separately, but they did.
9 The Director of OFAC explained why they designated
10 separately. To use their own words, "Because it alerts
11 the world to the organization's true nature and cuts them
12 off from the financial system." That's how it tells
13 people not to do business with them.

14 There is another big hole in everything included
14:27 15 in this HAMAS argument, and that's Executive Order 12947,
16 and that's really important. And you'll have this, also.
17 It looks like this so that you can find it. And on the
18 second page, it says -- It authorizes the Secretary of
19 Treasury and the Attorney General and the Secretary of
20 State to designate any person or organization it
21 determines is owned or controlled by or acts for or on
22 behalf of a designated organization like HAMAS. So once
23 HAMAS was designated, the Treasury Department is supposed
24 to use this part of the President's Executive Order to
25 designate all the organizations that are controlled by

14:27 1 HAMAS or act on behalf of HAMAS. That's how it alerts the
2 world to their true nature. That's how it keeps people
3 from funding them, and that's what the Treasury Department
4 does. That's what it just did with Al Saleh. That's what
5 it did with Al-Aqsa and etcetera. So Dr. Levitt is
6 frankly wrong when he told you that designating HAMAS is
7 the same thing as designating the Zakat Committees.

8 And you know something interesting? Dr. Levitt
9 knows the importance of the designation process. You
10 remember when I questioned him about why he was willing to
11 appear on Arab television station Al Jazeera and my
12 question was like, Well, Al Jazeera is an Arabic language
13 station, and it has programs and been known to report some
14 things from terrorists, and I asked him, I said, "Well,
14:27 15 why are you willing to appear on Al Jazeera, even though
16 the Israeli government has accused of it of fomenting
17 terrorism?" What was his answer? "It's not designated."
18 He was quick to justify appearing on Al Jazeera, and he
19 said "I don't agree with anything they say, of course, but
20 I get on there to debate with them, and it's not
21 designated so it's okay."

22 Now, the same thing when Congress asked the
23 Director of USAID why USAID continues to work with the
24 Islamic University of Gaza. Look at 1008. This is what
25 it looks like. It's a transcript of a Congressional

14:27 1 hearing. They said, Well, how come you are continuing,
2 USAID, to work with these organizations? And Congress is
3 worried about that. And they said they are not
4 designated, and if they are not designated according to
5 OFAC's -- We assume we can continue to work with them.
6 Same answer Dr. Levitt gave when I asked him why he would
7 appear on Al Jazeera: Because it's not designated. To
8 this very day the Treasury Department has never alerted
9 the world that it considers the Zakat Committees to be
10 controlled by HAMAS and not charitable organizations.

11 But these prosecutors want you to act as if they
12 had been designated. They want you to ignore reality.
13 They want you to rely on Avi instead of the designation
14 list. Avi testified as a representative of Israel, the
14:27 15 very government that occupies Palestine. The very
16 government that deports people without charges, demolishes
17 homes, etcetera. That's who they want you to rely on. It
18 seems the ISA, the organization that Avi works for, the
19 organization that inters people without charges for years.
20 And the Government of Israel makes little distinction
21 between who's a terrorist and who's just a Palestinian
22 seeking to return to his homeland or seeking to help his
23 people survive. Avi did the same thing that the
24 government did here. He brought a handful of items from
25 the tens of thousands that Israelis collected during

14:27 1 Operation Defensive Shield and the later military
2 operations. All way after Holy Land closed, by the way.
3 He like, Agent Burns, only showed you that which supported
4 the conclusion that they were HAMAS. He didn't bring you
5 the FATAH posters that Mr. Abington said he saw on the
6 walls of Zakat Committees when he visited or the pictures
7 of Yasser Arafat who opposed HAMAS and Mr. Abington said
8 he saw on the walls of Zakat Committee when he visited.
9 We were able to find documents from the Holy Land files
10 that the government didn't want you to see. We don't have
11 any way to bring you the documents, posters, pictures from
12 the Zakat Committee that the Government of Israel didn't
13 want you to see. And you recall the U.S. -- what the U.S.
14 government thinks about Israel intelligence, that's it's
14:27 15 not reliable. Ed Abington testified that Israelis have an
16 agenda in terms of trying to influence the thinking of
17 U.S. policy makers. They apply intelligence in a
18 selective fashion. He also said the U.S. government does
19 not accept Israeli intelligence at face value. The
20 government never challenged this.

21 Judge Fish will give you another instruction on
22 how to determine the credibility or honesty of the
23 witness. Did the witness have a particular reason not to
24 tell the truth or a personal interest in the outcome or a
25 relationship with a government? How can you rely on

14:27 1 anything Avi said here knowing that the branch of the
2 United States Government in charge of intelligence does
3 not -- is not willing to accept Israeli intelligence at
4 face value. How can you find Shukri Abu Baker guilty
5 beyond a reasonable doubt based on that kind of evidence?
6 Avi claims that he knew the Zakat Committees were
7 HAMAS-controlled as early as 1991, the whole time that the
8 FBI was wiretapping Holy Land. Don't you know -- Don't
9 you know if the FBI thought there was a serious threat to
10 national security that this money from Holy Land was going
11 to support terrorism, it would have done something about
12 it? It was listening from 1993.

13 The government made a big point of showing you
14 that HAMAS started suicide bombings in 1994 and even told
14:27 15 you some American citizens who happened to be in Israel
16 were killed. Don't you know that the FBI -- if the FBI
17 thought Holy Land money was going to the same terrorist
18 organization that was killing innocent civilians, they
19 would have done something about it? Why didn't they?
20 Because the Holy Land money was going to legitimate
21 charities and desperately poor people, not to HAMAS. They
22 didn't designate these committees because they didn't have
23 the evidence to designate them, even though the standard
24 for designating someone a terrorist is simply reasonable
25 cause, reasonable cause, a very low standard of proof.

14:27 1 They don't have to go in front of a judge or court to
2 designate, and they couldn't even do that.

3 You may remember the end of the government's
4 case, one of the prosecutors stood up and read the
5 designation of Holy Land as a specially designated
6 terrorist, and I doubt that it came as a surprise to you
7 that the Holy Land was designated, but there a couple of
8 points about that that I want to point out to you. If you
9 will take a close look at that -- I don't seem to have
10 that one here. But it's Government's Exhibit 11-5. You
11 will notice the Treasury Department designated Holy Land
12 because it found reasonable cause to believe that Holy
13 Land had been determined to meet the criteria of the
14 Executive Order. Now for you to find Shukri guilty of
14:27 15 crimes charged, you have to find that the government
16 proved its case beyond a reasonable doubt. The difference
17 between reasonable cause and proof beyond a reasonable
18 doubt is huge. Proof beyond a reasonable doubt, as we
19 have talked about, "is proof so convincing that you would
20 rely on it and act without hesitation in the most
21 important of your own affairs." Without hesitation.
22 Think about that. It's the highest standard we have in
23 the law. Reasonable cause, on the other hand, as I say,
24 doesn't require a trial or even a judge.

25 I want to make another point. There is also a

14:27 1 stipulation in this case. It's Court Exhibit 9. That's
2 an agreement between the prosecution and the defendant.
3 And this is an agreement which says that none of the
4 individual defendants on trial here has ever been
5 designated. To this very day, not a single one of these
6 men -- not Shukri or any of the others -- has ever been
7 designated and put on the Treasury Department's list.
8 None of them appear on this list, with thousands and
9 thousands of people on it. To this very day the Treasury
10 Department has not even found the very low standard of
11 reasonable cause to determine that Shukri meets the
12 requirements to be designated as a terrorist.

13 Now, I expect that Mr. Garrett will get up
14 tomorrow or perhaps Wednesday and say, Well, the failure
14:27 15 to designate them doesn't mean anything because the
16 designation of Holy Land made it unnecessary to designate
17 them individually. But that's not true. The Treasury
18 Department designated HAMAS, and then it designated key
19 HAMAS officials -- Sheikh Yassin, Khalil Mishal, Mousa Abu
20 Marzook and several others. The Treasury Department
21 designated the Al Saleh Society and then designated its
22 director at the same time. If you flip through this
23 document, Defendant's Exhibit 1111, you will see the
24 Treasury Department has designated hundreds and hundreds
25 of individuals. That means the Treasury Department when

14:27 1 it has reasonable cause to designate both an organization
2 and its director and officers, that's what it does. It
3 doesn't just designate the organization and then give the
4 officers a pass. The fact that it didn't designate Shukri
5 and these other gentlemen means only one thing. It didn't
6 have the evidence to designate, and if the Treasury
7 Department couldn't find enough evidence to meet the very
8 low standard of reasonable cause for Shukri, you can be
9 sure there is not enough evidence to get you to the very
10 high standard of proof beyond a reasonable doubt.

11 One more point and this is important. If you
12 find Shukri not guilty of providing material support to
13 HAMAS, you must find him not guilty on the tax and money
14 laundering counts because those charges all rely on the
14:27 15 same theory.

16 Ladies and Gentlemen, you have been very patient
17 with me, and I thank you. After all the defense lawyers
18 speak to you, the prosecutors will get to argue one more
19 time, and that's because this very high burden remains on
20 them, remains right here on this table. That's where it
21 is now, and that's where it was, and that's where it
22 remains. And it remains with them to prove each and every
23 element of every crime. You know where the doubts are. I
24 have tried to show you some, and you have heard the
25 others. You have heard that not even the United States

14:27 1 Government will accept Israeli intelligence at face value
2 and that all of this really comes back to Avi. Miranda
3 and Burns relied on Avi, and Levitt relied on Israeli
4 sources. So that's really where this all comes from. You
5 have heard the prosecution agree that Shukri has never
6 been designated and stipulated to that. I'm asking you to
7 focus on the proof and the doubt that you know exists.
8 Don't permit Mr. Garrett when he stands up to wrap himself
9 up in the American flag and appeal to your emotions. You
10 have to wrap yourselves in the American flag. You have to
11 make certain that this trial is decided fairly and on all
12 the facts, not just selective facts. This case has to be
13 decided on what you know is certain now about what they
14 tried to prove. If anything, one thing, makes you
14:27 15 hesitate about the prosecution's evidence, that's all the
16 doubt you need to find Shukri not guilty. Make sure,
17 please, that in the private place you go, when you make
18 the most important decisions in your life, make sure that
19 the prosecution has removed every single reasonable doubt
20 you have. You don't have to explain or justify your
21 doubt, and no one should try to talk you out of it. If
22 you have a doubt, even if you can't put it into words, if
23 you have a doubt -- it only takes one -- then the law
24 requires you to hold onto it and let that be your verdict.
25 The American justice system is what sets us

14:27 1 apart from other countries. It's the foundation on which
2 this country was created and what we all hold so dear.
3 Your part, holding the prosecution to that high burden is
4 the most important part in the entire criminal justice
5 system because it gives all of us the assurance that no
6 one will be convicted of a crime just because the
7 government wants to see that happen.

8 I know, Ladies and Gentlemen, that you have all
9 listened carefully, and again, I thank you for that and
10 Shukri Abu Baker thanks you for that. I know you will
11 weigh the evidence carefully, and I know that after you do
12 that you will come to the only conclusion that is just and
13 the only conclusion that is fair and the only conclusion
14 that upholds the American justice system, and that is that
14:27 15 you will find Shukri Abu Baker not guilty. Thank you.

16 Thank you, your Honor.

17 THE COURT: Ladies and Gentlemen, I have told
18 you earlier that I wanted insofar as possible not to
19 interrupt the presentation of any of these counsel during
20 the closing argument. So I think this would be a good
21 time to take our overnight recess so that we don't go into
22 the presentation of the next counsel who will argue.

23 While we're apart this evening please continue
24 to observe the instructions I have given you regarding
25 your conduct as jurors. We'll be in recess until nine

14:27 1 o'clock tomorrow morning.

2 (Jury out)

3 THE COURT: Ladies and Gentlemen, Ms. Hollander
4 stayed within her allocated one and a half hours. So I
5 think we're on schedule for the time limits agreed upon by
6 the defense.

7 One other housekeeping matter I wanted to check
8 about is what progress has been made in ascertaining what
9 documents or other tangible things were admitted into the
10 record during the trial. I understood when we were
11 together last week that was an ongoing process, but I
12 haven't heard any updates.

13 MS. DUNCAN: Your Honor, I met with Mr. Jacks,
14 and we went through the exhibit list, and we have agreed
14:27 15 on almost all the exhibits, and my understanding Mr. Jacks
16 sent an e-mail to Ms. Casey to look at the record to see
17 if those exhibits were admitted.

18 THE COURT: Ms. Casey says according to her
19 there is no dispute. She apparently sent an e-mail.

20 Counsel for the government have anything?

21 MR. GARRETT: The only thing I would bring to
22 your attention on this jury instruction, Mr. Cline and I
23 are going to meet after court today to see if we can come
24 to an agreement about that and have it to you no later
25 than first thing in the morning.

14:27 1 THE COURT: Okay. Anything from the defense?

2 MS. MORENO: No thank you, your Honor.

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C E R T I F I C A T I O N

I, Cassidi L. Casey, certify that during the proceedings of the foregoing-styled and -numbered cause, I was the official reporter and took in stenotypy such proceedings and have transcribed the same as shown by the above and foregoing Pages 1 through 161 and that said transcript is true and correct.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

s/Cassidi L. Casey

CASSIDI L. CASEY
UNITED STATES DISTRICT REPORTER
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION
LICENSE NUMBER 1703

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